can't call up the Interstate Commerce Commission and get temporary authority.

Mr. Floyd: Thank you, sir. I think that is all.
Exam. Lawton: Any one else?

By Mr. Ellis:

Q. Mr. Utzinger, at the first hearing in this matter down at Washington, D. C., one O. R. Davis, from Texas, testified, his testimony beginning at page 374 of the record, and he purported to represent oil haulers up to approximately 300 in number, without being very definite who they were, or where they were, and then read a statement in which he indicated that all these oil haulers were opposed to trip leasing, and that as practiced in the oil fields it results in abuses such as flagrant violation of the hours of service, and so forth. I make that preliminary statement so you will understand what he said down there.

A. He didn't speak for me.

Q. I cross-examined this gentleman, and at page 384 of the record, in attempting to say who he represented, among other things, he said he represented the oil haulers from Colorado. Now, you are from Colorado, are you not?

[fol. 1936] A. I am.

Q. Was he representing you down there?

A. No, sir.

Q. Or any other operators in Colorado that you know of?

A. I don't know about that.

Q. I meant oil field haulers, that is what I should say.

Mr. Ellis: Thank you.

By Exam. Lawton:

Q. You are an oil field hauler, are you not?

A. Yes.

By Mr. Jones:

Q. You haul both?

A. Haul oil field equipment and bulk petroleum.

By Mr. Lieberman:

Q. Is it your position that you wish to be permitted to lease the equipment of both certificated oil field carriers as well as non-certificated carriers?

A. Well, if——

Exam. Lawton: What do you mean by a non-certificated carrier?

Mr. Lieberman: A non-carrier.

Exam. Lawton: Non-carrier.

By Mr. Lieberman:

Q. Is it your position, in other words, that you wish to be permitted to use the equipment of other carriers who are certificated by the Interstate Commerce Commission and carriers who are not certificated by the Interstate Commerce Commission but who have such equipment available for use?

[fols. 1937-1939] A. Yes.

Q. What is your answer?

A. Yes.

Mr. Lieberman: Thank you. That is all.

Exam. Lawton: Anything else?

If not, you are excused.

(Witness excused.)

Exam. Lawton: Off the record.

(Discussion off the record.)

Exam. Lawton: On the record.

We will adjourn at this time until 9 o'clock tomorrow morning.

(At 5:25 o'clock p. m., December 6, 1948, the hearing adjourned to 9 o'clock a. m., December 7, 1948.)

[fol. 1940] PROCEEDINGS—December 7, 1948

Exam. Lawton: Come to order, please.
We will resume the hearing.
Mr. O'Brien, call your first witness.
Mr. O'Brien: I will call Mr. Hale.

WILLIAM M. HALE was sworn and testified as follows:

Direct examination.

By Mr. O'Brien:

Q. Will you state your name and occupation and address, please?

A. William M. Hale, Superintendent of Stations, Illinois Central Railroad, Chicago.

Q. How long have you been in the employ of the Illinois Central, Mr. Hale?

A. Forty-two years.

Q. Would you briefly state what positions you have held with that company?

A. Starting out from a telegraph operator and agent, division agent, supervising agent, superintendent of stations.

Q. As an officer of the company, did you have prepared copies of the latest balance sheet of the Illinois Central Railroad?

A. I did.

Mr. O'Brien: We will ask that that be identified as Exhibit No. 25.

Exam. Lawton: It will be identified as Exhibit No. 25.

[fol. 1941] (Respondent's Exhibit No. 25, Witness Hale, marked for identification.)

By Mr. O'Brien:

Q. How many stations does the Illinois Central serve?

A. Approximately 685.

Q. How many States?

A. States, oh, I thought you said stations. I beg your pardon. States, 14 States.

Q. Does the Illinois Central conduct over the road truck service on merchandise shipments?

A. It does.

Q. Have you been in charge of the plan of integrating certain truck routes over the Illinois Central system?

A. I have.

Q. What is the purpose behind this plan?

A. The purpose is to endeavor to improve our service on the handling of less carload freight.

Q. That is, conducted over highways that parallel your line, more or less?

A. Yes, sir.

Mr. O'Brien: I will ask that this be marked Exhibit No. 26 for identification.

Exam. Lawton: It may be so marked.

(Respondent's Exhibit No. 26, Witness Hale, marked for identification.)

[fol. 1942] By Mr. O'Brien:

Q. Referring to the exhibit which has been marked for identification as Exhibit No. 26, a map of the Illinois Central system which shows in red the truck routes that have been authorized by the Interstate Commerce Commission, in how many States does the Illinois Central hold authority to operate this coordinated rail-truck service?

A. Ten States.

Q. When was this service first inaugurated, Mr. Hale?

A. The first service started from Carbondale, Illinois, in March, 1939. That was to serve 66 stations radiating from Carbondale.

Q. Was this certificate granted in the case entitled Illinois Central Railroad Company, common carrier application, MC-86779, and later reported in 12 MCC 485?

A. Yes, sir.

Q. Will you briefly describe the operation and its result?

A. In the integration of the coordinated rail-truck service, we selected Carbondale as the distributing or key point.

Merchandise cars were loaded from Chicago and East St. Louis to break bulk at the Carbondale station for distribution to the surrounding territory the following morning by the truck routes operating from Carbondale. This arrangement, as I stated, was put in for the purpose of improving our service and attempting to regain some merchandise that had been lost to the railroad, and what we considered a good business practice at that time was to lease the equipment [fol. 1943] for the truck performance rather than purchasing the equipment and establishing mechanical facilities and other incidental things that go with the operation of the trucking.

Q. This plan of leasing equipment was presented to this Commission in the original case, was it not?

A. I was not present at the original hearing, but I have read the testimony and the opinion of the Commission, and that indicates that it was, and apparently approved by the Commission in granting their certificate.

Q. In each of the succeeding applications for authority for additional routes in which you were present this plan for leasing equipment was presented to and approved by the Commission, was it not?

A. Yes sir.

Mr. O'Brien: May we have this marked for identification as Exhibit No. 27, please?

Exam. Lawton: It may be so marked.

(Respondent's Exhibit No. 27, Witness Hale, marked for identification.)

By Mr. O'Brien:

Q. Now, regarding the actual operation, you have before you a contract which has been marked for identification Exhibit No. 27, contract between the Illinois Central Railroad and the Railway Express Agency, Inc., covering the leasing of equipment by the Express Company to the railroad for the transportation of less carload freight over [fol. 1944] certain routes in Illinois, Iowa and Wisconsin. Are you familiar with this contract?

A. Yes sir. As a matter of fact I negotiated that contract with the Express Agency.

report which accompanies the Form BMC 57. That is mailed in to the Bureau Of Motor Carriers.

Q. Those last two, or the last three have to do with report of any excess driving or no excess driving?

A. That is correct, yes, sir.

Mr. O'Brien: May we go off the record, Mr. Examiner?

Exam. Lawton: Off the record.

(Discussion off the record.)

Exam. Lawton: On the record.

By Mr. O'Brien:

Q. The last sheet, as I understand it, Mr. Legg, is a report of medical examination to the Tennessee Railroad and Public Utilities Commission comparable to the requirements of some of the States in which you operate?

A. That is right.

Q. Is there anything further you wish to add to your testimony, Mr. Legg?

A. Nothing that I think of.

Q. I believe you said you listened to Mr. Hale's testimony, and as far as you are concerned it is correct.

A. That is correct, yes, sir.

Mr. O'Brien: I offer Exhibit No. 28 in evidence.

Exam. Lawton: Is there any objection?

[fol. 1958] Exhibit No. 28 is received.

(Respondent's Exhibit No. 28, Witness Legg, received in evidence.)

Mr. O'Brien: I tender the witness for cross- examination.

Cross-examination.

By Mr. Eldred:

Q. Mr. Legg, is this same policy and same procedure followed by the Railway Express in other divisions of the company in the employment of drivers in the handling of substitute service for the railroads?

A. It is.

Q. In other words, this is the national policy of the company?

A. That is correct. The practice is uniform.

Mr. Eldred: That is all.

By. Mr. Todd:

Q. Mr. Legg, with respect to the reports that are made a part of Exhibit No. 28, that is those forms which have been prescribed by the Interstate Commerce Commission, such as the drivers daily log and the report of excess driving time, does the Railway Express Agency maintain extra copies of these reports in its files, or does it maintain any copies of these reports?

A. Yes. We keep copies of all reports of the drivers log, each chauffeur has that on his vehicle, his copy. The original is kept in the office of the garage.

Q. And do you maintain the headquarters for this particular operation here in St. Louis?

[fol. 1959] A. It is directly in charge of our agent at Carbondale.

Q. Well, the records, that is the drivers daily logs, for example, are they maintained in Carbondale?

A. That is correct.

Q. In Carbondale.

A. Yes, sir.

Q. And are they readily available there for any inspector of the Interstate Commerce Commission to see them at any time?

A. They are.

Q. Now, does the Railway Express Agency report to the Interstate Commerce Commission any excessive hours that are driven by the employees who drive these trucks?

A. They do.

Q. And are copies of those reports maintained in your office?

A. They are.

Q. In filing those reports, Mr. Legg, do you file them as the agent for the Illinois Central Railroad?

A. That is correct.

Q. Excluding dates and reference to particular routes shown in the contract, are the conditions which appear in this contract, Exhibit No. 27, the same that appear in all the contracts that govern the other routes which you have with the Railway Express Company?

A. Yes, sir. We only have one type of contract.

Q. Under the contract, what name appears on all trucks under lease to the Illinois Central?

A. The name Illinois Central Railroad is painted in large letters on the equipment.

Q. Is the Express Company bound to keep these trucks in good working order?

A. Yes, sir.

Q. Is the Express Company bound to employ competent and qualified persons to drive the equipment who will adhere to all laws, regulations or ordinances of the United States or any State, City, or village?

A. Yes, sir, that is included in the contract.

Q. What rates apply on such shipments?

A. Railroad rates.

[fol. 1945] QY. What bills of lading are used?

A. Railroad bills of lading.

Q. Are insurance provisions made in the contract for injuries to persons or property?

A. Yes, sir, on page 3 of the contract, paragraph 3 (h) covers the insurance feature.

Q. Who has control of the vehicles, the Express Company or the railroad?

A. The Railroad Company has control, and that is also provided for on page 3 of the contract.

Q. It shows that the Railroads prescribe the time schedule?

A. Prescribes the time schedule, and the method of handling the freight and loading and the unloading, the necessary records that go with it.

Q. Has the railroad the right to discharge a driver for good cause?

A. Yes, sir, that is also embodied in the contract on page 4.

Q. How are the vehicles leased, on a use basis or on a percentage of the revenue basis?

A. Entirely on a use basis, the payment being so much per mile regardless of whether the equipment is loaded or empty.

Q. Are the vehicles leased to the railroad exclusively?

A. Yes, sir, that is also part of the contract shown on page 7.

Q. What is the term of the contract?

A. It has 90 days cancellation clause.

[fol. 1946] Exam. Lawton: Pardon me. Did you say page 7 of the contract?

Mr. O'Brien: I beg your pardon.

A. Maybe I gave you the wrong page number on that.

Mr. Ellis: He means item 7 on page 4.

A. I beg your pardon. It is paragraph 7 on page 4, Mr. Examiner, paragraph 7.

By Mr. O'Brien:

Q. I asked you how long a term it was, Mr. Hale?

A. 90 days.

Q. 90 day term?

A. Yes, sir.

Q. Why not a longer term?

A. We feel that it would not be fair to either party to have a longer period of contract because of changed conditions. There are many wage problems that come up from time to time, and more so now than heretofore. From the railroad standpoint we do not feel that we should have a longer term contract that would prevent renegotiations for possibly a better rate, likewise we do not feel it would be fair to the express agency to tie them down to a given rate for a longer period that might cause them to operate at a loss.

By Mr. O'Brien:

Q. You say that especially in view of the fact that the revenue is computed on a use basis?

A. The revenue is computed on a use basis.

[fol. 1947] Q. One of the questions raised by the Order issued by the Commission on January 9, was whether the

use of leased vehicles should be limited to a fixed percentage of the number of vehicles to which the using carrier holds title. What is your position with regard to this proposition?

A. Well, there does not seem to be any greater reason for that than the proposition for bidding the lease. We are not in the trucking business. We are in the railroad business, and the merchandise that is on the highway is still railroad merchandise and being handled under railroad transportation. The only difference being it is in a truck instead of in a box car. We are in this coordinated rail-truck operation to meet the competition and try to recover some of the traffic that has been lost due to inferior service on the local freight trains.

Q. Mr. Blanning in his testimony stated that investment in the equipment by a carrier would insure a more responsible operation. Do you agree?

A. We do not see that that should have any particular bearing so far as the railroad is concerned, as the balance sheet will show we are among the largest corporations, and we do not feel that the owning of a few trucks would change the status so far as the responsibility of the railroad is concerned.

Q. As a matter of fact, the Illinois Central leases under Equipment Trust most of its rail equipment at the present time, does it not?

[fol. 1948] A. That is right.

Q. Mr. Hale, have you read the Order of the Commission dated January 9, 1948?

A. Yes, sir.

Q. Of the four rules and regulations drafted by the Bureau Of Motor Carriers and attached to the Order, do you find any objectionable features?

A. Generally speaking, we do not, with the exception of the Rule 2, paragraph H, I believe it is. We feel that under our present contract that we retain sufficient control over the movement of the trucks and the conduct of the drivers without having to go to the actual employment of the driver.

Q. Have you anything further you wish to add, Mr. Hale?

A. Only this, Mr. O'Brien. I would like to make it clear

that any of the trucking that the Illinois Central Railroad is doing is strictly a substitute or coordinated rail service. We are not in the trucking business. We do not go to the man's place of business with our over the road trucks and pick up the freight; neither do we deliver the freight to the man's place of business at destination. Our transportation by truck is from one station to another. All of the billing and all of the collection of the freight charges, all of the handling of the business is strictly by the railroad agent. The only performance on the truck and by the driver is to load and unload the freight and transport it from one station to another. The public has no contract [fol. 1949] with the trucking operation. All of the public's dealings is with the railroad agents.

I think that is all that I care to add.

Mr. O'Brien: Thank you, Mr. Hale.

I wish to offer Exhibits Nos. 25, 26 and 27, and ask that they be accepted in evidence.

Exam. Lawton: Is there any objection?

Hearing no objection, they are received in evidence.

(Respondent's Exhibits Nos. 25, 26, and 27, Witness Hale, were received in evidence.)

Mr. O'Brien: We offer the witness for cross-examination.

Exam. Lawton: You may cross-examine, beginning over on the right.

Cross-examination.

By Mr. Lordan:

Q. I just have one question. If I understand you correctly, Mr. Hale, as far as the Commission's rules are concerned the company you represent has no objection to the promulgation of these rules with the exception of Paragraph H, Rule 2, I mean subdivision.

A. Yes, sir.

Q. Which reads that with relation to the person assigned to drive the equipment under this rule shall be an employee of the carrier.

A. Yes, sir.

Q. In other words, that would force, if I understand you

correctly would force the employees that operate the truck [fol. 1950] equipment, contemplated under Exhibit 27, or Exhibit 25, the employees of the railroad express agencies to be employees of the Illinois Central.

A. That is correct.

Q. Are you familiar with the provisions of Rule subdivision K, of that particular portion of the rule?

A. I do not have it with me. I have read it. If you will tell me briefly what it is, I think I may be able to answer.

Q. It provides—perhaps counsel could help you on this situation. It provides, Paragraphs A, C, D and H of this rule shall not apply to the operation of equipment by any carrier in accordance with the plan heretofore submitted by such carrier in a formal proceeding and specifically approved by the Commission.

A. Yes, sir.

Q. With that in mind, did I understand your testimony generally that this plan of coordinated truck-rail transportation had been submitted to the Interstate Commerce Commission and approved?

A. Yes, sir, that is correct.

Q. Then, if the rules were adopted, including subdivision K, then that objectionable section of the rule would not apply to you, would it?

A. That is the way we have felt about it all along, but we do not know whether the Commission agrees with us or not. We have felt that this whole program was not [fol. 1951] applicable to the railroads.

Q. In other words, even under Mr. Blanning's proposal your plan of proposed operation having been previously submitted to the Commission and approved would not then require the application of the employment provision?

A. That has been our position, yes, sir.

Mr. Lordan: I have no further questions.

By Mr. Todd:

Q. Mr. Hale, I would like to direct your attention for just a moment to the last page of Exhibit No. 27, being your contract. I believe you stated on direct examination that the contract was for a term of 90 days. Wouldn't it be

more accurate to say that the contract is a continuing one with a 90-day cancellation clause?

A. Well, that was my intention to, when you said the term, I presumed that you meant the term of cancellation. In other words, it has a 90-day cancellation clause in it. That is the way it reads. This contract shall continue in force and effect until the expiration of 90 days after notice in writing shall have been given to either party of its desire to terminate.

Q. And there is no oral understanding between you and the—that is the Illinois Central Railroad, and the Express Agency that would alter or change the provision that you have just read into the record, is that correct?

A. None whatever. Our policy has always been, and that is demonstarated by the fact that the Express Agency [fol. 1952] has been handling this over the road trucking from Carbondale since 1939 without any change in the contract. So long as the service and the rates are satisfactory why the contract continues in effect, but either party has the right after 90-day notice to terminate the contract.

Q. Now, with respect to the persons who drive these motor vehicles, are they the employees of the Express Agency, or of the Illinois Central Railroad?

A. They are the employees of the Express Agency.

Q. They are carried on its payrolls?

A. Yes, sir.

Mr. Todd: That is all I have of this witness.

By Mr. LaTourette:

Q. Mr. Hale, the proceeding under which you understood the Commission had approved some type of plan with respect to operating vehicles was one under Section 207 of the Act, wherein the Illinois Central sought a certificate to conduct the operations described in the contract, was it not?

A. Yes, sir, in seeking that certificate the plan of operation was included in the evidence, and that evidence indicated this particular plan under which we are now operating.

Q. The authority in the proceeding was sought to con-

duct the over the road operation and as an incident to the proceeding before the Commission you put in evidence this contract?

[fol. 1953] A. Yes, sir.

Q. To show the type of operation?

A. Yes, sir.

Q. Proposed to be conducted?

A. Yes, sir.

Mr. LaTourette: That is all.

Exam. Lawton: Is there any further cross-examination? If not, you are excused.

(Witness excused.)

J. C. Legg was sworn and testified as follows:

Direct examination.

By Mr. O'Brien:

Q. Would you state your full name, please?

A. J. C. Legg.

Q. And your occupation and address, Mr. Legg?

A. Superintendent, Railway Express Agency, St. Louis, Missouri.

Q. How long have you been in service with the Railway Express?

A. For more than thirty-seven years.

Q. And would you briefly describe your present duties, Mr. Legg?

A. As superintendent of the operations in the Missouri Division of express traffic, the handling of express traffic and the various operations we perform.

Q. Excuse me. Can you keep your voice up?

A. And the various services we perform, and among them [fol. 1954] is the operation of trucks radiating from Carbondale, Illinois, for the Illinois Central Railroad.

Q. And what is the territory, did you say, that was under your jurisdiction?

A. The Missouri Division, the territory embraces parts of rail lines in six States, but in among it is the Illinois Central Lines in Southern Illinois.

Q. Now, were you present when Mr. Hale was testifying, Mr. Legg?

A. Yes, sir.

Q. You heard Mr. Hale testify that under the terms of the contract, and as far as that is concerned from a practical interpretation, practical performance under the contract, the driver and the truck are devoted exclusively to Illinois Central Service under that contract, is that correct?

A. That is correct.

Q. The driver has the understanding that he is working exclusively for the Illinois Central?

A. That is correct.

Q. You have a set of forms, which I would like to ask this Commission to identify as Exhibit No. 28, if I may.

Exam. Lawton: It may be identified as Exhibit No. 28.

(Respondent's Exhibit No. 28, Witness Legg, marked for identification.)

By Mr. O'Brien:

Q. Would you kindly review those forms and tell me if it is not true that the forms not only include all the requisites of the rules and regulations of the Interstate Com-
[fol. 1955] merce Commission with regard to drivers certificates and physicians certificates, but rules covering operation and maintenance, and they go beyond that to those required rules, do they not?

A. That is correct.

Q. Now, as I see the first sheet on Exhibit No. 28 is a physician's certificate, and also the following two sheets are the recommended standard physical examination forms. Those are the recommended physical examination forms recommended by the Interstate Commerce Commission, is that correct?

A. That is correct.

Q. And the next sheet is the rules governing the operation of motor vehicles, that is general for all railway express employees, is that correct?

A. Correct, yes, sir.

Q. Now, your Railway Express general instructions relative to operation and maintenance and reporting motor

vehicle equipment, that includes all rules prescribed by the Interstate Commerce Commission with regard to the operation and maintenance of your equipment, does it not?

A. That is correct.

Q. Now, this little card that follows next, would you explain what that card is, please?

A. That is a motor vehicle report card. Each chauffeur prepares on of those and turns it into the garage foreman on his return trip noting any defects that need atten-

[fol. 1956] tion in the equipment.

Q. Now, your next sheet is a motor vehicle damage report that has to do with damage to the equipment, does it not?

A. That is correct, yes, sir.

Q. Your next sheet is report of any accidents on the highways or street, is that correct?

A. That is correct.

Q. Now, the following one, I wish you would pay particular attention, probably explain this a little more in detail to this Commission. It is what is known as the drivers daily log. Does that have to do with insuring that the driver keeps within the hours of service requirements of the Commission?

A. That is correct.

Q. And every move, or his whole day's occupation is included thereon, is it not?

A. That is correct.

Q. Not only his driving time but his off hours?

A. That is correct.

Q. So that you may at all times keep a record of whether or not he is staying within the rules provided by the Interstate Commerce Commission as to maximum hours of service?

A. That is right.

Q. Now, following that form, that daily drivers log which is in duplicate, do you have another form for reporting to

[fol. 1957] the Interstate Commerce Commission?

A. Yes sir, Form BMC 55, when the occasion calls for it, also—that is 58, pardon me; also No. 55, that is a monthly

Q. And are those reports available to the Interstate Commerce Commission inspectors at any time in Carbondale?

A. They are.

By Mr. O'Brien.

Q. When you submit your excess driving reports to the Illinois Central, do you not?

A. That is right, yes.

Q. And they in turn make a report to the Interstate [fol. 1960] Commerce Commission.

A. That is right. We prepare the report.

Mr. O'Brien: I wanted to clear that up. You want to get out that it got to the Commission. I wanted to show the route that it took.

By Mr. Todd:

Q. Is the same procedure followed with respect to reporting of any reportable accidents to the Interstate Commerce Commission?

A. It is.

Q. In other words, you submit the report to the Illinois Central and the Illinois Central in turn submits it to the Interstate Commerce Commission, is that correct?

A. That is correct.

Q. Now, the employees who operate these motor vehicles, Mr. Legg, are they members of any organized labor group?

A. They are.

Q. And what is their union affiliation?

A. At Carbondale they are members of the Brotherhood Of Railway Clerks.

Q. And that is the particular operation that you are familiar with and discussing here, is that correct?

A. That is correct.

Mr. Todd: I believe that is all I have.

Exam. Lawton: Is there anyone else?

By Mr. Lieberman:

Q. The forms entitled rules covering operators of motor [fol. 1961] vehicles, rather the bulletin entitled rules gov-

erning operators of motor vehicles, are the rules of the Railway Express Agency, are they not?

A. That is correct.

Q. The same is true of the automotive department, circular No. 5, which follows?

A. Yes sir.

Q. And the same is true of the motor vehicle report card?

A. That is right.

Q. As well as the motor vehicle damage report and the agent's report of street accidents?

A. That is right.

Q. All of the other forms are forms which have been prescribed by the Interstate Commerce Commission?

A. That is right.

Mr. Lieberman: Thank you.

Exam. Lawton: Is there anything further?

Is there any redirect, Mr. O'Brien?

Mr. O'Brien: No, only one question I should have asked Mr. Hale in connection with his testimony. Would it be necessary for him to come back? I mean I think we are through.

Mr. LaTourette: I have one question, if I may.

By Mr. LaTourette:

Q. Mr. Legg, do your drivers of these motor vehicles, if you know, belong to different labor organizations in different sections of the country, or are they all members of [fol. 1962] the Brotherhood Of Railway Clerks?

A. I am not exactly familiar as to that feature in other sections of the country outside of my jurisdiction. I don't know.

Mr. LaTourette: I see. Thank you, sir.

Exam. Lawton: If there are no more questions of this witness, he is excused.

You are excused.

(Witness excused.)

Mr. O'Brien: I will recall Mr. William M. Hale.

WILLIAM M. HALE was recalled and testified further as follows:

Direct examination.

By Mr. O'Brien:

Q. Mr. Hale, to clear up this point, the Railway Express Company submits these reports to the Illinois Central, do they not, who in turn make reports direct to the Interstate Commerce Commission?

A. That is correct.

Q. And you have copies of these reports always on file for the Commission's attention?

A. Yes, sir. Every report for the entire railroad pertaining to that particular feature is on file in the general office in Chicago, copies of those reports.

Mr. O'Brien: That is all.

The Witness: If I may further answer a question about, from the gentleman over here, about the labor organiza-
[fol. 1963] tions, I am in better position to answer that than Mr. Legg because my jurisdiction extends over the entire railroad and his is limited to an area. From my own knowledge all of the express drivers who are serving the Illinois Central belong to the Clerks Organization. They do not belong to some other organization on the Illinois Central.

Exam. Lawton: Does anyone else have any questions of Mr. Hale?

You are excused.

(Witness excused.)

Exam. Lawton: Does that complete your presentation, Mr. O'Brien?

Mr. O'Brien: Yes. Thank you.

WALTER BOCKSTAHLER was sworn and testified as follows:

Direct examination.

By Mr. Waples:

Q. Your name?

A. Walter Bockstahler.

Q. And what is your business?

A. I am executive vice president and general manager of Bridgeways, Incorporated.

Q. Is Bridgeways, Incorporated, a common motor carrier of general commodities operating under authority issued by the Interstate Commerce Commission?

A. It is.

[fol. 1964] Q. Among other territory does it have operations within the States of Michigan, Indiana and Ohio?

A. It does.

Q. Have you had experience with other common motor carriers of general commodities operating within that territory, among other territories?

A. I have been connected with the motor truck transportation business since 1937. In 1937 I became senior vice president of Keeshin Freight Lines, Chicago, operating in the territory generally from the Mississippi River to the Atlantic Ocean, from the Ohio and Potomac Rivers to the Canadian Border. I remained with Keeshin until the end of 1941, when I went down to Washington with the Office of Defense Transportation. I was with the Office of Defense Transportation until December, 1943. At that time I took the presidency of the Interstate Motor Freight System, a common carrier of general commodities by motor vehicle, who operate in identically the same territory previously described. I left the services of Interstate on September 20, of this year, to become connected with Bridgeways, Incorporated.

Q. Mr. Bockstahler, will you state whether or not the payment of State registration or license fees and regulatory or public service or public utility commission fees for the operation of equipment in the various States is a matter of any importance in connection with motor carirer operating costs?

A. Very definitely so. The payment of license plates and mileage taxes amounts to a very substantial sum of [fol. 1965] money on any size operation.

Q. Whether or not prior to the enactment of reciprocal agreements and pacts between the respective States it was necessary to pay those fees over again in each State through which the equipment operated?

A. In many instances prior to the enactment of reciprocity taxes individual license plates had to be purchased in every State in which the vehicles were run.

Q. And was it for the purpose of eliminating that, that the reciprocal pacts or agreements were entered in to between the respective States?

A. That was the purpose.

Q. And generally speaking, is the effect of those pacts to avoid having to pay those fees except in some one State?

A. That is the purpose of the pacts.

Q. Have you had experience with carriers wherein you have had occasion to license and title equipment in the respective States of Michigan, Ohio and Indiana?

A. All three companies that I have been connected with have had that same problem.

Q. With reference to doing both an intra and an interstate business, the same carrier doing both types of business within that territory, what can you say as to whether or not it is necessary to license in the State in which intra- [fol. 1966] state business is done equipment of the carrier?

A. In the States you mentioned as well as in most other States in the northeastern territory, intrastate business can be handled only on equipment licensed in the State in which that intrastate business is done.

Q. In connection with the carrier that engages in both intra and interstate commerce operations within one of those States, is it ever of importance or desirable to be able to use that equipment in interstate commerce as well as in intrastate commerce?

A. Every day, frequently.

Q. Is it ever of importance to be able to operate that

equipment freely, flexibly, without as well as within the State where it is used for interstate commerce?

A. It is of utmost importance.

Q. Will you state whether or not also it is of importance to maintain what the States view as a fairly equitable or reasonable ratio of equipment licensed within their respective States if the carriers operate extensively within those respective States?

A. It just has to be done.

May I have that last question read?

(Question and answer read.)

A. That was not the complete answer, if I may continue. The individual States are very jealous of maintaining the tax income and if a company operating in more than one [fol. 1967] State attempts to register all its equipment in one State, possibly the State in which the license fee is the lowest, and then do business in other States under a reciprocal basis, they run into very considerable difficulties both legally and practically.

Q. In order to obtain the benefits of reciprocity on equipment licensed in these respective States of Michigan, Indiana and Ohio via carrier domiciled in any of those three States, will you state whether or not it is necessary to have that equipment owned by a person or corporation domiciled within the State of license?

Mr. Eldred: Mr. Examiner, I think we are going far afield. I can see no relation between reciprocity and the rules that are subject to investigation here. I object to this line of testimony.

Mr. Waples: If the Examiner please, I would be glad to reply to that if desired, but I think the relevancy is competent.

Exam. Lawton: I think it is relevant. Overruled.

(The question was read.)

A. The reciprocity agreements are pacts between Michigan and Ohio, between Michigan and Indiana, and between Ohio and Indiana are all identical, and they all provide, first, that the license plate will be issued only to the owner

of the equipment in the State of his residence. If that equipment is then intended to be certificated in the other States under reciprocity, the owner of a piece of equip-
[fol. 1968] ment may establish a principal place of business in another State, and buy a license plate in that other State, and if he does he buy it as an outstate purchaser of a license plate and that vehicle is not subject to reciprocity and can be used only in the State in which the license plate is issued.

Q. Mr. Bockstahler, will you please refer to, if you have with you, a copy of the current reciprocal pacts just received from the Michigan Reciprocity Board; will you kindly read in to the record the very short portion of the Michigan-Indiana pact which you state is comparable, the same as the Michigan-Ohio and the Ohio-Indiana, which covers that subject that you have just testified with reference to?

A. It is very short, your Honor.

Exam. Lawton: What is the date?

Mr. Waples: This is the current pact which was adopted originally on November 30, 1937, and is the current pact that is in effect between these States. It is very short. I will be glad if copies are desired, to attempt to furnish such as a late filed exhibit, but anyone who wishes it, I thought we could read it in to the record, it is very short.

Exam. Lawton: What is the pleasure of counsel, do you want copies?

Mr. Lordan: I don't want a copy. I object to it. I don't think it is material to the issues sought to be established in
[fol. 1969] this proceeding. What difference does it make how many taxes they have to pay? I mean, they have to pay them because the State laws require that they pay them. What bearing does that have upon the determination of this issue whether or not it will issue, that is the Commission will issue a rule to in any way, control truck leasing. I mean, it is no different than any other type of operating expense.

Exam. Lawton: It probably is not material, but it does have some relevancy.

Proceed, read it in.

By Mr. Waples:

Q. Will you read into the record, Mr. Bockstahler, those two paragraphs which appear on page 6 of the reciprocity agreement of Michigan-Indiana?

A. In case of equipment owned and titled in a particular carrier out-State which is operated by the carrier under lease or contract from a proprietary resident of such out-State, then the so-called exempted taxes and fees, relating to such equipment and the operation thereof, shall be paid to the authorities of the State where the equipment is actually owned and titled, in all respects in accordance with the laws of that State, unaffected by this agreement; and for the operation of such equipment, the operating carrier may secure in his home State on appropriate application, exemption from payment of the corresponding fees and taxes in the home State.

In the case of equipment owned by a resident of some State other than Indiana or Michigan, and titled in such [fol. 1970] other State, with which other State both of contracting parties hereto may now or hereafter have reciprocity pacts covering the general subject matter of this agreement, then as such equipment as may be operated by a Michigan or Indiana carrier under lease or contract from the proprietor thereof such operating carrier may under appropiate relations in this behalf to be hereafter by separate instrument adopted by the present contracting States respectively have the benefits of similar reciprocity hereunder as may be granted by each of the said States under their said respective reciprocal pacts with other States.

Q. That you have indicated is the same language in the other pacts.

A. Identically the same language.

Q. With ref-rence to a carrier engaging in an interstate operation within the State of Indiana, say a Michigan carrier engaging in an intrastate operation within the State of Indiana, what can you say as to whether or not that must be conducted by an Indiana corporation?

A. All intrastate operations in the State of Indiana must be conducted by Indiana corporations. No out-State corporation is permitted to conduct intrastate motor vehicle transportation in the State of Indiana.

Mr. Wheeler: Mr. Examiner, I object to the question and wish to add my objection to the rest, to this line of testi-
[fol. 1971] mony, unless counsel indicates in what manner it is relevant to the issues in the proceeding We ought to have some theory.

Exam. Lawton: What is the point?

Mr. Waples: The point is this, Your Honor. In order to get the benefit of these reciprocal pacts and be able to use this equipment flexibly within these three States it is necessary to have a subsidiary or an affiliated or associate company set up within the State wherein you wish or desire or have a license for the equipment. For instance, a Michigan carrier engaging in an Indiana operation has to have that equipment licensed and titled in Indiana, and in order to have reciprocity under it, it must be owned by an Indiana resident; therefore, you have to have an Indiana subsidiary that has title to the equipment, lease it to the Michigan carrier operating in the three States, then it is entitled to reciprocity. If it is not owned by and titled in and licensed by an Indiana corporation it is not entitled to the benefits of reciprocity under these pacts so, therefore, it is absolutely necessary to have affiliated or subsidiary or associate companies that have title to the respective vehicles that are going to be licensed and titled in their respective States. Now, then, to be licensed and titled in those States, for the reason that the witness has given, you have to maintain a reasonable ratio of equipment in those States if you are operating there, and equipment used on regular pickup and delivery, local peddle runs, even though in interstate commerce, they
[fol. 1972] insist on the license in order to get reciprocity and use it in your other operations, and to have any flexibility it has to be owned by a corporation created within that State, a subsidiary or affiliated corporation within the State of license.

Exam. Lawton: Just what does that have to do with the question of this Commission regulating leasing?

Mr. Waples: I had understood, Your Honor, at the former hearing there was some suggestion that there should be restrictions with reference to the matter of equipment owning and leasing, subsidiary or affiliated corporations,

that perhaps that was a practice that was being entered in to for some ulterior purpose, and this is to show why it is absolutely essential, why it has to be authorized and exist, it has to be engaged in by carriers who engage in extensive operations within these three States. I submit there are a lot of other States where that is true but there is no question of that being true in these three States; therefore, any limitation on the right of the carrier to set up subsidiary or associate companies in these respective States, and have them owned and titled and licensed in those States, and leased back to the carrier, the units that it wishes to have licensed and titled in those States; of course, it has to have them done through certain units, licensed and titled there for the purpose given by the witness. It is because of that that there can be no interference with this right to set up and create the subsidiaries [fol. 1973] without doing a great injustice.

Exam. Lawton: How much more do you have on this point?

Mr. Waples: We are practically through. It is only because the point was raised by the Commission going in to it—I think there is nothing on the record prior to this.

Exam. Lawton: Complete your presentation.

Mr. Waples: Thank you.

By Mr. Waples:

Q. Mr. Bockstahler, is it because of these pacts and to get the benefit of reciprocity that it has been essential in connection with the companies you have been associated with to have these subsidiary, affiliated or associate corporations set up within these respective States?

A. It is, I would like to adopt the statement you made as my testimony with respect to the reasons for introducing this subject.

Mr. Waples: If it is not objected to as leading, I will be glad to have you do so.

By Mr. Waples:

Q. Mr. Bockstahler, and in that way, of course, you save having to pay the fees in all three States.

A. That is correct.

Q. Which would be prohibitive costs. With reference to the Exhibit which was—I don't know what the number was, but it is entitled abstract of State laws and regulations pertaining to laws and interchange by motor carriers.

[fol. 1974] Exam. Lawton: That has not as yet been accepted in evidence.

Mr. Waples: But it has been distributed, Your Honor.

By Mr. Waples:

Q. With reference to the Michigan portion thereof which, I believe, appears on pages 14 and 15, Mr. Bockstahler, will you state whether or not a fairly recent Michigan statute adopted I think in 1945, with reference to leasing of equipment to a shipper either with or without driver, and defining that as contract carriage and attempting to make that contract carriage, whether or not there is such a statute?

A. Yes, that is true.

Q. Is it not included?

A. It is not included. I read that document and the Michigan extracts as quoted are correct, but they are incomplete to the extent that there is an ordinance or law that was passed in 1945 which defines the leasing of equipment by anyone, a carrier or an individual, or a leasing company, or what not, by anyone to a shipper with or without a driver cannot be permitted unless that lessor first obtains contract carrier authority from the Michigan Public Service Commission.

Exam. Lawton: The reference is to the digest of State laws which has been distributed but has not been introduced in evidence.

The Witness: That is correct. I was merely pointing out there is one additional Michigan law which was not in-

[fol. 1975] cluded in the digest.

By Mr. Waples:

Q. Just adding that for whatever informative value it may have in this proceeding. State whether or not it

is your understanding the validity of that is being tested in a Court action?

A. It is at the present time.

Mr. Waples: If copy of that is desired we will be glad to get one as a late filed exhibit.

Exam. Lawton: Does anyone desire a copy of that statute?

By Mr. Waples:

Q. Mr. Bockstahler, with reference to the proposed rules and laws, requirements recommended by the American Trucking Associations, truck leasing committee, what can you say with reference to your position on that subject?

A. For myself personally and for my company, we are generally in accord with the final report of the A. T. A. Truckleasing Committee.

Q. Is there anything further you have in mind adding?

A. Yes. The main purpose of my appearing at all was to point out this one reason whereby subsidiary or affiliated equipment owning companies have been brought into existence, at least in the case of my experience, for reasons to facilitate operations under the law. In the exhibits presented by a witness for the Commission at Washington, some statement was made that the practice of having subsidiary or affiliated companies, might lead to draining off of revenues from the operating company in to such sub- [fol. 1976] sidiaries thereby making the reports of such operating companies of little value in rate cases. In my experience with three of the largest companies in the Central States that condition has never occurred, because all the companies I have been connected with have religiously kept the rental prices of the equipment by the affiliated or subsidiary owning company to the carrier at cost. If, however, there should be cases where the Commission felt that such companies drained off profits, it would be entirely in order for the Commission before accepting the operating reports of such companies whose bookkeeping methods were under question to insist that the records of both the operating company and the subsidiaries be in-

cluded in a consolidated report, otherwise it could discredit such figures in any rate case.

Exam. Lawton: Does that complete your statement?

By Mr. Waples:

Q. Is there anything further you have in mind?
A. No.

Mr. Waples: That is all.
Exam. Lawton: We will take five minutes recess.

(A short recess was taken.)

[fol. 1977] Exam. Lawton: Come to order, please.
You may cross-examine Mr. Bockstahler.

Cross-examination.

By Mr. Eldred:

Q. Mr. Bockstahler, how much equipment does your company own, Bridgeways, Inc.?

A. Bridgeways, Inc., owns no equipment. Bridgeways Terminal & Equipment Company, an affiliated corporation, owns 600 odd trailers, 200 odd tractors, and about 100 pick-up and delivery trucks.

Q. Now, does Bridgeways, Inc. lease equipment from any other party other than your subsidiary?

A. Yes, it does.

Q. Now, what proportion do you lease from your own subsidiary and what proportion from other people?

A. We lease about 90 percent of our trailers from, our semi-trailers from our affiliated company. We lease about one-half of our power from our affiliated company, and we lease about 60 percent of our city pickup and delivery equipment from our affiliated company.

Q. Now, from your affiliated company do you lease both truck and driver or do you merely lease the equipment from your subsidiary?

A. We lease the equipment; the driver is, in all cases the driver is on Bridgeways payroll, even when the equipment is leased from others.

[fol. 1978] Q. So you have no objection to that rule?

A. We have no objection to that rule. All drivers hauling for Bridgeways are union members of the Brotherhood of International Teamsters.

Q. Now, in connection with the pay, how do you pay for the equipment, on what basis, is it use basis, so much a mile?

A. A use basis, so much a mile up to a minimum of 10½ tons, and then an additional remuneration for larger weights.

Q. That is the same on all the equipment you lease?

A. All on practically the same basis. They are all on the same basis. The terms will vary as to mileages and weight, but they are on the same principle.

Q. How long a term; is there any term specified in connection with the lease?

A. All of our leases are for one year when originally made; automatically renewable thereafter but cancellable for cause on thirty days notice.

Q. Now, in connection with the reciprocity pacts, I believe that your were connected with a company that operated in the States of New Jersey and Delaware and Pennsylvania, were you not?

A. Both Interstate and Keechin operated in those states. Bridgeways does not.

Q. Now, the requirements which you describe in connection with Indiana, Ohio and Michigan would not apply, there is no such restriction affecting the States of New [fol. 1979] Jersey, Pennsylvania and Delaware, is there?

A. Not to my knowledge, no.

Q. And does that also include New York as well?

A. In the State of New York you must have New York plated equipment to handle any intrastate business. In fact, in New York it goes even further. Irrespective of what the Interstate Commerce Commission may consider the nature of a shipment that moves, for example, from Buffalo to New York City over highways through Pennsylvania and New Jersey, where the Commission holds that is an interstate traffic, the State of New York says that is still intrastate traffic, we don't care if you take it from

New York to San Francisco and bring it back to New York, we consider it intrastate business.

Q. Yes, but if you have an Ohio license you do not have to have a New York State license to perform that transaction?

A. To handle any shipment within the State of New York it must be New York State plated equipment. If we take a shipment from Buffalo to New York and go out of the state and come back in again it must be on New York plated equipment or we are subject to legal conflicts by New York officials.

Q. However, if you operate from Ohio into Albany?

A. Into Albany, then the reciprocity applies.

Q. How about Maryland?

A. We have reciprocity into Maryland.

[fol. 1980] Q. District of Columbia?

A. Yes.

Q. Do you operate into Massachusetts and Connecticut?

A. Interstate does, yes, and it has reprocity. There is a little different rule again. When you come to Massachusetts, you must put a plate on the equipment but the plate is interchangeable, so we have plates at Albany, and when Illinois, Michigan or Indiana unit reaches Albany it must stop, put on the Massachusetts plate, go into Massachusetts, deliver its load, pick up a load, come out of Massachusetts, stop at Albany, remove the Massachusetts plate and go back using the western plate. The same plate will be used the next day by another vehicle.

Q. So generally speaking, the requirements in the eastern states are much less than those in the states of Indiana and Michigan and Ohio?

A. With the exception of New York State they are.

of the ATA proposed rules?

A. Correct.

Q. Now, would you tell me, sir, what, in your opinion, the abuses are that these rules would correct?

A. To my knowledge I do not know of any abuses be-

Q. Now, sir, you stated, I believe that you were in favor

cause no company I have ever been connected with permitted operation of long term leased equipment or short

term leased equipment without full compliance with the [fol. 1981] Commission's safety or other rules.

Q. So to your knowledge there are no abuses?

A. I have heard of them, but not to my knowledge, I have never had any on, permitted any on any company that I have been connected with.

Mr. Eldred: That is all, sir. Thank you very much.

By Mr. Lordan:

Q. Mr. Bockstahler, speaking with relation to your last statement on direct examination of the problem that might possibly face a regulatory body with relation to the accounts when kept, or when there is more than one company involved in the operation, you recall your statement?

A. Yes.

Q. I take it you are fully cognizant from your statement of the fact, where Company A owns a permit, or authority or certificate and makes a report but that the physical operation is conducted by Company B, that same additional requirement might be necessary so that the regulatory body would be fully aware of the total cost involved?

A. That was my recommendation, and I went further, that if any company failed to comply with furnishing of this information, or if there was any gap in the law making it compulsory for the company to furnish such information, then the regulatory body would be empowered to disregard that man's figures in any rate-making case.

[fol. 1982] Q. If we have a situation, first, where Company A holds the certificate of public convenience and necessity from, we will say the Interstate Commerce Commission and conducts its operation by leasing its equipment from Company B, and Company B and Company A cost combined would reflect a true operating picture, and that might be reporter to the commission, the problem is not so difficult, is it?

A. That is correct.

Q. However, if we have Company A, the holder of the certificate conducting its operation through and by virtue of 200 or 300 separate owner-operators, how, in that situation, Mr. Bockstahler, do you think the Commission could

obtain accurate cost data from Company A which would permit it to establish rates for that company?

A. Now, then, let's analyze that for a moment. We assume to start with that Company A, being the operator that has the certificate, hires its equipment from Company B, and pays more than it ought to pay for the purpose of diverting moneys from the operating company to an affiliate company, for purposes of hiding revenues; that we have decided could be controlled by demanding the combined report of both. It is unreasonable to assume that Company A, being the operating company, will hire from 300 individual drivers and pay them one cent more than it has to. It can't hide profits by hiring from a mass body, because those are outsiders who never give that money [fol. 1983] back again, so on your question of owner-operator the mere competition between owner-operators for work will keep those prices down so that Company A, the operating company, is not hiding any revenue through the use of owner-operators.

Q. You do not see any difficulty involved in that situation at all?

A. I do not see any difficulty where there is a large mass of owner-operators. It is only where a company that you control is where you might want to hide something. You are not going to hide something and give it to somebody else because he is never going to give it back to you.

Q. Where would the Commission get cost data of the cost of operating the 300 pieces of equipment that is owned by the owner-operator?

A. The actual cost paid by the operator that has the certificate to those for transportation services is reported in a separate account to the Interstate Commerce Commission under our system of accounts.

Q. And that is as far as, I take it, that you have or that you think any regulatory body should go in determining rates, is to find out what some underlying carrier was paid in total to determine whether or not the operating cost was reasonable?

A. Where you have the use of a large number of such underlying owner-operators the mere competition will

keep those prices in line; can't help but keep them in line.

[fol. 1984] Q. Do you think there is any possibility of using any basis of comparison between operators who utilize different types of these services, and then have their combined reports analyzed by a regulatory body?

A. Definitely. In fact, we do it ourselves every month, or every three months, when I get a copy of the ATA reports of the Class 1 carriers, the book that they get out, and we also subscribe to the other independent service down there—I go over all my competitors who operate in the same manner, and also those who operate in a different manner, and I sit down and I break down their reports and see exactly how much it is costing me per mile or per ton to do anything as compared to my competitors, and if I find my cost higher than my competitors in any way I get busy quick and find out why.

Q. If we assume with relation to Carrier A that Carrier A employs five owner-operators to conduct its business and pays them less, for the purpose of my illustration, for the purpose of assumption involved in my question, less than the cost of operating the equipment as conducted by the five operators, then Company A applies to the Commission for an increase in rates?

A. If it pays them less it will have a larger profit.

Q. They could not show under such circumstances that an increase in rates was possible or necessary?

A. They could not possibly show it.

[fol. 1985] Mr. Waples: I object to this. It is beyond the scope of the direct.

By Mr. Lordan:

Q. And that, my friend, would work to the disadvantage of another company competitive to Company A, who did not use owner-operator trucks, would it?

A. No.

Q. Is that your statement?

A. No, it is not my statement. My statement is that when the Commission considers rate levels in an area, the Commission never considers a rate case for one carrier only, or two carriers, it considers them for a whole group.

In the central territory in which I am connected, there are 845 members of the Central States Motor Freight Bureau. Now, the entire group reaches a point where the average of profit is so low, the operating ratio is so high that the industry needs a rate adjustment, and in such rate adjustment there are, always have been some operators have a satisfactory operating ratio and there are some operating in the red. We have had that condition in railroad rate cases for fifty years. The Pocahontas Roads may show they do not need an increase; the industry as a whole does. When the Commission is examining these cases and the statements are brought in by the various companies which the Commission is going to weigh, my point was that the Commission should weigh only those that present honest figures and if there is any question by the Commission as to the honesty of any [fol. 1986] figures throw those out and then settle the case on the balance of the statistics obtained by the Commission from honestly prepared figures.

Exam. Lawton: Now, Mr. Bockstahler, will you please make your answers more responsive?

The Witness: I think that answers his question directly.

Exam. Lawton: Don't deliver a speech.

Mr. Waples: I thought the question was a little far afield. I objected.

By Mr. Lordan:

Q. Suppose the Commission gets to the point where it hasn't any substantial figures at all from any of the operators upon which it could rest its determination?

Mr. Waples: Oh, I submit——

Exam. Lawton: Isn't this cross-examination going quite beyond the direct examination?

Mr. Lordan: I will withdraw that question. This witness brought out the fact, Mr. Examiner, that with relation to these reports it was brought out on direct examination by his own counsel. I will withdraw the question. I have finished. I am through.

By Mr. Wheeler:

Q. Mr. Bockstahler, from your testimony I would gather that you had no objection to the rules proposed in the notice of proposed rule making in this proceeding?

A. Do you mean the original rules proposed by the Commission?

Q. Yes.

[fol. 1987] A. I read those quite a long time ago, some months ago. I am not familiar with every one of them. I have followed the A. T. A. hearings and I have read their final report, and I favor their final report rather than the original rules.

Q. Well, now, why did you do that?

A. Because I feel that the A. T. A. report is fair and equitable.

Q. Well, what rule proposed in this notice of proposed rule making do you object to?

A. I am not conversant at the moment with the original proposed rules.

By Exam. Lawton:

Q. Do you mean the rules proposed by the Bureau?

A. They were proposed last January. I read them eight or ten months ago. I do not recall them enough to be able to discuss them.

By Mr. Wheeler:

Q. Well, at that time when you did read them did you conclude that they would adversely affect your operation in any way?

A. I thought that some of them were very fair and some of them were questionable. I do not remember which was which. My general impression at the time was that they were subject to considerable refinement before becoming permanent.

Mr. Wheeler: Mr. Reporter, would you read my question?

(The question was read.)

A. I don't remember my exact feeling at the time I [fol. 1988] read those rules ten months ago.

By Mr. Wheeler:

Q. You have not taken the trouble to read them since then?

A. No, I have not.

Mr. Wheeler: That is all.

By Mr. Todd:

Q. Mr. Bockstahler, does Bridgeways, Inc., trip lease any motor equipment?

A. Yes, it does.

Q. And those leases, of course, are not on a yearly basis with a thirty-day cancellation clause?

A. Those are on trip lease basis identical as described yesterday by Mr. Gotfredson, same type.

Q. When you trip lease equipment does the driver of the equipment become your employee?

A. He becomes our employee, gets a separate pay check, withholding tax and old age benefits are deducted.

Q. And under those circumstances is he paid for the use of his equipment?

A. By a separate check.

Q. On use basis?

A. On use basis.

Q. Not on a percentage of the revenue?

A. Never on a percentage of revenue.

Q. What percentage of your traffic that is handled by your company is handled on trip lease equipment?

[fol. 1989] A. Less than ten percent.

Q. Do you have any particular policy in your company with respect to when you would use trip lease equipment as opposed to equipment owned by your subsidiary or equipment that is under a long term lease from independent operators?

A. Yes. We always use our own equipment first. When every piece of our own equipment at any terminal has been used and we have additional freight offered, and we can find an extra or a trip lease operator we use them, but never until our own equipment has all been dispatched and used first.

Q. Even though your own equipment may not have available a returned load, is that true?

A. Our own equipment moves out always first before any trip lease equipment is engaged.

Q. Does Bridgeways operate into the State of Wisconsin?

A. Yes, into Milwaukee.

Q. How many pieces of company owned equipment, that is equipment owned by your subsidiary company do you have licensed in that State?

A. None.

Q. And with these owner-drivers that you have under a long term lease do they furnish their own licenses or do you buy those licenses?

A. They furnish their own license plates.

Q. Now, isn't it true, Mr. Bockstahler, that the cost of licensing vehicles in the State of Wisconsin, for example, [fol. 1990] is considerably higher than it is in the State of Indiana?

A. Oh, yes, three times as high approximately.

Q. I take it from your direct testimony that you are quite conversant with reciprocity and the various motives that go behind these reciprocal pacts that are entered into between states?

A. In a general way, yes.

Q. Isn't it true that the individual states are very jealous of the taxes that they collect on motor vehicles?

A. Yes.

Q. And that one thing that might interfere with the continuation or extension of reciprocal pacts would be that one state would not be getting what it considers the fair proportion of the taxes involved for motor trucks?

A. I testified to that effect in my direct testimony. It is a very important factor.

Q. Is it true, Mr. Bockstahler, that owner-operators, particularly the itinerant truckers have a tendency wherever possible to license their vehicles in states where the licenses are less than in other states?

A. I don't know that from experience. I have seen owner-operators, these itinerants licensed in almost every

state in this eastern territory. I don't know where their actual domicile is.

[fol. 1991] Do you have any idea of percentage of owner-operators that are employed by your company; I believe you say that one-half of your power equipment comes from owner-operators?

A. On permanent basis.

Q. Yes.

A. Yes, sir.

Q. Do you know what percentage of those owner-operators have their vehicles licensed in Indiana?

A. The record is available in Detroit. I do not have the figures with me.

Q. Do you know whether any of those owner-operators are licensed in the State of Wisconsin?

A. Yes, I do know there are some licensed in Wisconsin.

Q. But they pay for those license plates?

A. They pay for those license plates.

Mr. Todd: I believe that is all. Thank you, sir.

By Mr. LaTourette:

Q. Mr. Bockstahler, in the States of Michigan, Ohio and Indiana, do you have any statutory provision which defines the owner of a vehicle as being one who operates a vehicle under lease for a fixed period beyond a certain number of days?

A. The owner?

Q. The situation I am trying to illustrate is this: Under the Missouri statute the definition of owner of a motor vehicle includes one who leases a vehicle for more than ten consecutive days in any one period. Do you know of any [fol. 1992] provision in Michigan, Ohio, or Indiana which makes the same requirement?

A. No, there are owners in Michigan who lease their equipment for the entire year, and never operate it at all. They are in the same situation in Indiana and in Ohio, to my knowledge.

Q. You have no provision for taking out lessee titles and lessee plates?

A. No.

Q. Where the lease period extends beyond a fixed number of days?

A. No, the license plate must be obtained by the owner and then he may then lease that equipment for the entire year to a carrier, one who has an operating right. The carrier must certificate it and arrange for the reciprocity plates, but the owner never has to operate one day.

Q. I understand that, but the lessee is not required to take out what we understand to be a lessee's certificate of title to that vehicle if he should operate it beyond a fixed number of days under lease?

A. No.

By Mr. Turney:

Q. Mr. Bockstahler, do the considerations that you mentioned in connection with the establishment of subsidiary equipment companies also tend to require the use of owner-operators in particular in the three states you mentioned?

A. Yes, they do.

[fol. 1993] Q. Is there a substantial amount of leasing among the long haul carriers, by the long haul carriers in your territory?

A. Yes, the long haul carriers have more leasing, both on long term leasing and of trip leasing than the short haul carriers.

Q. Is that particularly true in the services between the Middle Atlantic States and the Central States Territory?

A. Particularly true in that territory?

Q. Do all or most of the principal carriers engage in that service, engage in that type of leasing, substantially?

A. Substantially.

Q. And that is both long term and trip types of lease?

A. Both types.

Q. You were in the hearing room yesterday when Mr. Girard testified, were you not?

A. Yes.

Q. In the course of his testimony there were some implications that the companies who have utilized lease equipment to any substantial degree might not be substantial companies in terms of investment and permanence,

and such, from that standpoint. From your knowledge of the companies you have been connected with and their competitors in this East to Central States operation, are these companies very substantial companies?

A. With one possible exception, they are all very substantial companies.

[fol. 1994] Q. Are there many of them?

A. About 50 to 60.

Q. Are many of the largest carriers in the country included in the 50 or 60?

A. The third largest carrier in 1948 is in that group; the fourth largest carrier is in that group. There are at least 10 out of the 20 largest companies in the United States engaged in the east-west business from Central Territory to the Atlantic Seaboard and back.

Q. And all of those companies participate in these leasing arrangements, both long term and trip?

A. All of them do to a more or less degree.

Q. Is that in most cases to a very substantial degree?

A. In most cases to a very substantial degree.

Q. Are you familiar with the conditions which have led the companies you have been connected with and these other companies to engage in those practices?

Mr. Todd: Mr. Examiner, I object unless the question is limited to companies with which Mr. Bockstahler has been connected. There is certainly no foundation laid that he knows the business of other carriers.

Mr. Turney: Mr. Examiner, that is exactly what we are doing. I asked him if he knew. That is all I asked.

Mr. Lordan: It is certainly beyond the scope of the direct testimony. On direct testimony he stated he was not purporting to testify with respect to any company [fol. 1995] except his own.

Mr. Turney: Mr. Lordan, I will take care of that. I adopt him as my witness. There is no problem about that. I have asked the witness the sole question if he knows of conditions that led, first, his company, and, secondly, competitors to engage in these practices. This question is a simple question and can be answered yes or no.

Exam. Lawton: He may answer it.

A. Yes, with respect to those companies with which I have been directly connected with.

By Mr. Turney:

Q. And what were those principal considerations on that east to central States movement?

A. The primary reason at the beginning was the question of reciprocity and State license plates adaptable to operate.

Q. Are there any traffic considerations involved in that?

A. There were not at the start. There may have some developed since, but they were not the moving factor.

Q. Do you know of any reasons why the same conditions would not affect the competitors?

A. I know of no reason why it should not be true of all those engaged in the same territory in the same type of business.

Q. Now, is the problem with respect to the necessity for engaging in, engaging owner-operators the same with respect to short haul operators, such as Mr. Girard's mosquito fleet, as it is with respect to the long haul carriers?

[fol. 1996] Mr. Todd: I object, Mr. Examiner, until it is shown this witness has some personal knowledge of the problems of short haul carriers.

Exam. Lawton: Objection sustained.

Mr. Wheeler: I object to the characterization of Mr. Girard's fleet.

Mr. Turney: Which one, the latter one? I will reframe the question.

By Mr. Turney:

Q. You heard Mr. Girard's testimony with respect to the fact that his short haul carriers do not any longer engage in a substantial amount of equipment leasing from owner-operators, did you not?

A. I did.

Mr. Wheeler: Mr. Examiner, I do not think there is any testimony necessarily short haul, and there is no definition in the record what a short haul carrier is.

Mr. Turney: He referred to them, Mr. Examiner, as operators who all operated within a short distance of the City of Chicago and whose operations were confined to that.

Mr. Ellis: I asked on cross-examination specifically if they were short haul carriers. He said yes.

Exam. Lawton: Regardless of that, you are talking about Mr. Girard's carriers.

Mr. Turney: That is right.

Mr. Wheeler: I object to the characterization, not to the [fol. 1997] question.

Mr. Turney: Was there a ruling?

Exam. Lawton: Will you reframe your question with regard to Mr. Girard's carriers, regardless of what they are.

By Mr. Turney:

Q. Did you hear Mr. Girard's testimony with regard to the carriers for whom he appeared, do not engage in the practice of hiring owner-operators?

A. I heard him so testify.

Q. And did you hear the reasons he advanced for that?

A. I heard them.

Q. The carriers that you have been with operate in the same States that he mentioned, do they not?

A. They do.

Q. And they are competitive with the carriers that he appeared in behalf of?

A. They are.

Q. Now, would you characterize those carriers as short haul carriers or long haul carriers?

A. Short haul.

Q. And would you characterize the carriers you have been talking about previously in your testimony as short haul carriers or long haul carriers?

A. Do you mean the central carriers?

Q. Yes.

A. All long haul carriers.

[fol. 1998] Q. Now, in your experience in the industry and in competition with these short haul carriers in behalf of long haul carriers, have you come to be familiar with

the problems as might affect this leasing question of the two different types of carriers?

A. Most certainly, because every company I have been connected with has been both a long haul carrier and short haul carrier. My present connection operates from Chicago to Milwaukee, Chicago to South Bend as well as from Chicago to Syracuse. All the other companies operated both short haul and long haul. I am familiar with both types of business for the three companies that I have been connected with.

Q. Now, is the problem with respect to the necessity for leasing both on short term and long term basis the same in the two different kinds of services?

A. It is not. We never trip lease, no company I have ever been with ever has trip leased for short haul distances.

Q. Why not?

A. The average length of the trip lease for the last two companies I have been connected with has been for, I will say in excess of 400 miles, the average length, whereas its own equipment, its permanent equipment, either company owned or leased on a permanent basis, would be on an average of only 300 miles, because trip leasing is not practical on short distances.

Q. Why not?

[fol. 1999] A. You can't afford to pay what the operator has to have to run those short distances on a single trip.

Q. Is there also a connection of a difference in the amount of dead-head mileage that would necessitate the use of trip leasing?

A. I know nothing of dead-head mileages.

Q. You are very fortunate.

By Exam. Lawton:

Q. Your companies have a balanced operation in both directions?

A. Within five percent, less than five percent of our total mileage is either part load or dead-head.

Q. You are very fortunate.

A. That is correct. We are in a fortunate territory.

Mr. Turney: That is all.

By. Mr. Idol:

Q. Mr. Bockstahler, you must be acquainted with the state of affairs between Chicago and Milwaukee. Did you hear Mr. Girard's characterization of the deplorable state of affairs in the motor carrier industry between Chicago and Milwaukee yesterday?

A. It was all news to me.

Q. You had never heard about it before?

A. I had never heard about it before. I thought the motor carrier industry in Central Territory is in the best condition today and for the last six months it has ever been.

Mr. Idol: Thank you.

[fol. 2000] By Mr. Morrow:

Q. What would be your length of haul that you think a trip lease would be practical for as a general rule?

A. I can only speak for this northeastern territory. In this northeastern territory trip leases are not practical under 250 miles as an extreme minimum, 300 better, and from there on up to 800 or 900 miles.

Mr. Morrow: Thank you.

Exam. Lawton: Does anyone else have any questions?

Mr. Todd: I would like to question him a little more about trip leasing.

Mr. Lordan: You are cross-examining Mr. Turney's witness now.

By Mr. Todd:

Q. Mr. Bockstahler, in the five percent dead-head mileage that you testified to, that is dead-head or light loading, did you take into consideration any of the dead-head mileage that the trip lease operators that you use might have had to travel?

A. No, I have no record of their mileage.

Q. Now, why is it that you say that the money, the amount of money that a trip lease carrier has to have to operate less than 400 or 500 miles is so great that it does not make it practical to use trip leasing under that number of miles?

A. It would take several sentences to answer that. A trip lease ties a piece of motor power and a trailer together permanently. You are renting them both at the same time. Pick up and delivery time is an important [fol. 2001] factor in the total time element of the transportation of freight by motor truck. On a short distance the pick up and delivery time delays at loading point, delays at unloading point may be prohibitive, and the tractor is still tied up, whereas on your company equipment you take the trailer, spot it, the shipper loads it, you come back six hours later or two hours later, or a day later and can load. On delivery you do the same. On short hauls the tractor and the trailer cannot be tied together for that length of time because the time factor is too costly out of the total revenue. For longer distance the time factor becomes less important.

Q. You don't then, I take it, trip lease any power equipment exclusively that is to haul your trailers?

A. Oh, no. What we call trip lease are entirely full units.

Q. Now, where do you think that the break in the number of miles is when it becomes economy to use trip leasing?

A. I answered this gentleman, about 250 miles is about the minimum, and from there on up. Our average is around 450 miles.

Mr. Todd: Thank you.

Exam. Lawton: Are there any other questions? If not, you are excused. Thank you.

(Witness excused.)

Exam. Lawton: Who is next?

Mr. Dixon: I will call Mr. Beiser.

[fol. 2002] RICHARD E. BEISER was sworn and testified as follows:

Direct examination.

By Mr. Dixon:

Q. Please state your name and address.

A. Richard E. Beiser, Royal Oak, Michigan.

Q. In what capacity do you appear here as a witness?

A. As General Manager of the National Automobile Transporters Association.

Q. Your appearance is not that of a carrier or operator?

A. No, it is not.

Q. But merely on behalf of the carrier and operator members of your association.

A. That is correct.

Q. Is it contemplated, Mr. Beiser, that your testimony will be supplemented later in this proceeding by actual operators as to the technical aspects of lease operations that they conduct?

A. Yes, sir.

Q. Have you prepared a statement of the position of your association in this proceeding?

A. I have.

Q. Will you read it?

A. My name is Richard E. Beiser. I reside in Royal Oak, Michigan. I am the manager of the National Automobile Transporters Association whose offices are located in the Barlum Tower, Detroit, Michigan. I have served [fol. 2003] as manager of that association since 1944.

The National Automobile Transporters Association is a non-profit corporation organized under the laws of the State of Michigan. It is a voluntary association of common carriers by motor vehicle who are engaged in the transportation of motor vehicle traffic in Interstate commerce.

Q. At that point, may I interrupt, Mr. Beiser, and ask if it is the fact that the members of your association are exclusively engaged in that type of traffic, there being

but very few exceptions where they handle any traffic other than motor vehicle traffic?

A. That is correct.

Q. And by motor vehicle traffic you include automobiles, trucks and related commodities, wheeled vehicles?

A. That is correct, busses, and so forth.

Q. Will you go on?

A. There are approximately 115 members of the association so engaged and collectively they handle approximately 90 percent of the motor vehicle traffic moving by motor common carrier in interstate commerce from the various points of manufacture and assembly of automobiles and commercial vehicles to destinations throughout the United States.

Some of the members of this association are engaged in the transportation of motor vehicle traffic by the so-called driveway method, involving the movement of such [fol. 2004] traffic in single units under their own power or in combinations in which the motive power is supplied by one of the vehicles in transit. Those members are not here involved in the subject matter of this proceeding. A large majority of the members of this association are engaged exclusively in the truckaway transportation of motor vehicle traffic or, in addition to transporting such traffic in driveway service, also transport substantial motor vehicle traffic by the truckaway method.

In the transportation of motor vehicle traffic by the truckaway method motor vehicle equipment specially designed for such transportation is operated by the member carriers of this association. Most of such equipment is designed to transport four motor vehicles, however, some equipment is used in the transportation of five to six motor vehicles depending upon the size of vehicles being transported.

The function of the National Automobile Transporters Association is to protect the interests of its various members and in that connection the association acts as publishing agent in the publication of Tariffs naming the rates and charges for the transportation of motor vehicle traffic for the account of its various members, operates a rather elaborate Accident Prevention Division in

charge of an Accident Prevention Director. We keep in close contact and communication with the American Trucking Association, the various state trucking associations [fol. 2005] and other organizations performing functions associated with the movement of motor vehicle traffic.

The National Automobile Transporters Association is governed by a Board of Directors elected by the general membership and headed by certain officers elected by the Board of Directors. Various committees are set up by the Board of Directors or by the Chairman of the Board to deal with specific problems affecting the welfare of the association members. There are various committee meetings, Board of Director meetings and membership meetings throughout the calendar year in which I participate as General Manager of the association. The Association members also file various reports with the association relative to their transportation activities. On the basis of these conferences and reports, I am generally familiar with the manner in which automobile traffic is transported by association members throughout the country and that is the basis for my present testimony.

To my personal knowledge, a majority of the members of the National Automobile Transporters Association on frequent occasions utilize motor vehicle equipment other than that owned by such members in the transportation of motor vehicles. Such equipment, other than company owned equipment, is procured through lease arrangements or through interchange with other carriers of motor vehicle traffic. A very common practice is to lease tractor equipment owned and operated by individuals to provide [fol. 2006] the motive power for the movement of semi-trailers loaded with automobile traffic. It is also a common practice for association members to secure equipment on a temporary basis from other motor vehicle haulers to meet variations in traffic volume. As a result the members of this association are vitally concerned with any action which may be taken by the Interstate Commerce Commission in connection with the regulation of the lease or interchange of motor vehicle equipment by motor carriers.

I would like to make one comment at this time. It is

not in the text. I would like to get it in the record. I think clarification of that probably is in order, using Detroit as an example, as a common point of shipment, many of our carriers, although they are common carriers will operate for a particular plant. I use an example, Packard. Others may move DeSotos, others may move Hudsons, sometimes the production facilities of those plants fluctuates, where one plant may have a substantial large volume of traffic while other plants would not have their normal amount of traffic, and in that event the carriers frequently interchange their vehicles in order to take care of a particularly heavy volume of movement from one particular plant. I did not think it was quite clear in the text of my statement, so I think that ought to be in the record.

The subject matter of this proceeding, proposed regulation of lease and interchange of vehicles by motor carriers, first came to the attention of the National Automo- [fol. 2007] bile Transporters Association at the time of the American Trucking Association convention in California in October, 1947. Under date of October 9, 1947, Mr. Blanning had addressed a letter to Mr. Boot of the American Trucking Association in which he indicated that he would appreciate receiving comments from the members of the industry as to proposed regulations in connection with the lease and interchange of motor vehicle equipment. I secured a copy of this letter and took this matter up with the association's Board of Directors, officers and counsel. Upon recommendation by our Board of Directors the Chairman of the Board appointed a committee to consider this subject and it has been under consideration by that committee from the date of its appointment right up to the present.

In December 1947, the truck leasing committee of our association authorized our counsel to address a letter to Mr. Blanning outlining the position of our association and this was done. Thereafter one of the members of our truck leasing committee was appointed to and served as a member of the American Trucking Association leasing committee and participated in the conferences held by the American Trucking Association committee, our associations counsel occasionally acted as a substitute for our commit-

tee member. The action taken by the American Trucking Association's committee, as reflected in Exhibits 8, 9 and 10 in this record, have been the subject of consideration and study by the members of our leasing committee and [fol. 2008] the final proposals of the American Trucking Association Truck Leasing Committee as set forth in Exhibits No. 10 and 11 of this record were approved and accepted by our truck leasing committee. In turn, the recommendations of our truck leasing committee were adopted by the general membership of our association in annual convention assembled at Detroit, Michigan on October 4, 1948.

Speaking on behalf of the National Automobile Transporters Association as its General Manager, I am prepared to state and do state that the members of the National Automobile Transporters Association indorse and approve the proposals made by the Truck Leasing Committee of the American Trucking Association as disclosed in Exhibits 11 and 12 of this record and are opposed to the proposals appended to the Commission's notice of January 9, 1948, setting this proceeding for hearing, to the extent that those proposals are at variance with the proposals offered by the American Trucking Association Committee. My statement will be supplemented by statements of individual members of the association who speak from the standpoint of actual operators as to the contemplated effect the proposed regulations of leasing and interchanging of equipment will have upon the association members individually.

Q. Does that complete your statement, Mr. Beiser?

A. Yes.

Q. Do you have anything to add by way of clarification [fol. 2009] of any of the points stated?

A. No, I think not.

Mr. Dixon: You may cross-examine.

Cross-examination.

By Mr. Eldred:

Q. Mr. Beiser, did the association ever make a survey as to the amount of equipment owned by its members and the amount leased?

A. Yes. However, it is not of recent vintage. At the present time I am not in any position to give you any such figures.

Q. How long ago was this study made, sir?

A. Approximately a year ago.

Q. Do you remember what the figures were then?

A. I really do not, sir.

Q. Could you give me anything on a percentage basis?

A. As I recall, it was in the neighborhood of 30 percent, but that is not——

Q. 30 percent owned?

A. 30 percent leased.

Q. Now, if you know, sir, whether the tendency since the last year has been to increase or decrease the amount of leased equipment?

A. I really don't know, sir.

Q. I note in your statement you stated that you addressed a letter to Mr. Blanning in December, 1947 outlining the position of the association. What was the posi-

[fol. 2010] tion that you took at that time?

A. There were only two phases of the original proposal that there was any considerable objection to on the part of the Automobile Transporters; one was with respect to the method of payment on a percentage basis, and the other this interchange of equipment between carriers.

Q. Now, what has caused you to change your position since then?

A. I don't know that we have, sir.

Q. What was Mr. Blanning's recommendation that he made to you?

A. I don't know.

Q. You don't?

A. No, sir.

Mr. Dixon: I don't think that last question was clear, Mr. Eldred.

Mr. Eldred: No. I will withdraw the last question.

I am wondering, Mr. Examiner, I might inquire of Mr. Jessup, in view of the fact that Mr. Blanning wrote the letter, and he has received a copy of it, I wonder if that could be made a part of the record here, if that could be furnished. He could let us know next week from Washington whether that could be done or not.

Mr. Jessup: Do you mean the copy of the letter to Mr. Boot?

Mr. Eldred: Copy of a letter to Mr. Boot and copy of the reply to Mr. Blanning from the National Automobile Transporters Association, December, 1947.

[fol. 2011] Mr. Eldred: I wonder if Mr. Beiser can furnish a copy of that?

The Witness: No, I cannot.

By Mr. Eldred:

Q. You cannot?

A. Not at this time.

Mr. Eldred: I mean subsequent to the hearing.

The Witness: It is possible we could. I think I have that letter in the file.

Mr. Dixon: We are in position to furnish a copy of letter which was addressed to Mr. Blanning. I do not think it is our function to furnish a copy of Mr. Blanning's letter.

Mr. Eldred: No.

Mr. Dixon: I will be glad to furnish that at the Washington hearing, Mr. Eldred.

Mr. Eldred: Thank you very much.

I believe that is all I have.

By Mr. Floyd:

Q. Mr. Beiser, in adopting the report of the A. T. A. did your group consider that part of the A. T. A. report that asked for special consideration of specialized carriers, and what action did you take into that part of it?

A. It is my understand- that our group endorsed the entire proposal of A. T. A. in all respects.

Q. Do you consider your particular members as engaged in a specialized type of hauling?

A. A very highly specialized type, yes.

[fol. 2012] And perhaps as to some regulation that might apply to one type of carrier might not apply to such a specialized group?

A. Yes, that is right.

Mr. Floyd: Thank you. That is all.

By Mr. Lardon:

Q. One of the recommendations of the American Trucking Associations, if I understand it correctly, is that it asks this Commission to give special consideration to those people involved in particularly specialized types of transportation, does it not?

A. I understand it does, yes.

Q. And that is the type of transportation that your members are interested in?

A. Exclusively.

Q. Will you tell me, Mr. Beiser, why you felt it necessary on behalf of the National Automobile Transporters association to then make recommendations to this Commission on behalf of the other portions of the industry in which you were not involved?

A. That was the opinion. I was so ordered by our board of directors to do just that.

Q. You don't know why your board of directors felt it necessary to make recommendations to the Commission with relation to general commodity haulers?

A. No, I do not.

Q. The report had specifically provided for haulers such as specialized haulers, that you are engaged in?

[fol. 2013] A. I understand that is true, yes.

Mr. Lordan: No further questions.

Exam. Lawton: Mr. Wheeler.

By Mr. Wheeler:

Q. You state here that your appearance here, and your recommendation here is upon recommendation of your Board of Directors and the Chairman of the Board?

A. That is correct.

Q. Was the membership canvassed in connection with this and polled?

A. Yes, they were.

Q. What was the vote?

A. I do not recall. It was substantial, a very, very substantial majority, however.

Q. Now, did it segregate as between that portion of the A. T. A. recommendation that related to specialized carriers, or a provision for exemption as applied to specialized carriers, or did it just deal with the A. T. A. proposal as a whole?

Mr. Idol: Mr. Examiner, I would like to object to any further cross-examination on the assumption the A. T. A. proposal has any reference in it to specialized carriers. There is no such reference.

Exam. Lawton: Do you accept that correction, Mr. Wheeler? Is that your understanding?

Off the record.

(Discussion off the record.)

[fol. 2014] Exam. Lawton: On the record.

By Mr. Wheeler:

Q. What did you circulate to your membership?

A. We held a membership meeting. It was discussed very thoroughly at our annual membership meeting on October 4 of this year.

Q. What was the discussion with the A. T. A. proposal?

A. That is right.

Q. Was anything else discussed in addition to the A. T. A. proposal?

A. At this meeting?

Q. Yes.

A. Oh, yes.

Q. What?

A. General business affairs of the Association, many affairs.

Q. Well, I meant that had relevance to this proceeding?

A. No.

Mr. Wheeler: I have no further questions.

By Mr. Todd:

Q. Mr. Beiser, in, for example, the city of Detroit, isn't it true that there is quite a pool of motor vehicles that are particularly designed for the transportation of automobiles, things of that kind?

A. No pool to my knowledge. There are many vehicles always present in Detroit, especially designed to transport vehicles but I do not think you would call it a pool in the common conception of pool vehicles.

[fol. 2015] Q. Perhaps my choice of the word there was unfortunate, but there is a considerable number of motor vehicles present in the city of Detroit that are particularly designed for the transportation of automobiles, isn't that correct?

A. Usually, yes.

Q. And isn't that also true with respect to other points where automobiles are manufactured and shipped?

A. Yes, but not in the same proportion as Detroit.

Q. Now, with particular reference to Detroit and vehicles there available for this type of service, are all those motor vehicles either owned by a carrier, that is certified or permitted by the Interstate Commerce Commission, or under some type of lease arrangement with such carrier under which that carrier controls that particular equipment?

A. Yes, that is right.

Q. And there are not available in Detroit, therefore, gypsies or itinerant truckers who operate equipment particularly adapted for the transportation of automobiles?

A. No, that has no part in our industry whatsoever, that type of operation.

Q. To your knowledge, isn't there also at least one contract carrier in the city of Detroit who transports automobiles?

A. Adjacent to Detroit.

Q. Well, he serves that Detroit area?

A. Yes, that is correct.

[fol. 2016] Q. Do you know of your own personal knowledge whether the common carriers that are members of your Association from time to time interchange equipment with that contract carrier, that is, when they need

equipment to augment their fleet and he has got some available, whether they make use of that equipment?

A. I can't give you a positive answer but it is entirely possible.

Q. You don't know whether that is true or not from your own personal knowledge?

A. No, I do not.

Mr. Todd: That is all. Thank you.

By Mr. Ellis:

Q. Mr. Beiser, I would like to direct your attention to the first two sentences in the last paragraph of page one of your statement, where you refer to these so-called drive-away operations; do you have that in mind?

A. Yes.

Q. Now, particularly the second sentence, you state, "those matters are not here involved in the subject matter of the proceedings". How do you arrive at that conclusion?

A. I can see no possible instance where we might lease any type of equipment for that particular operation. What we refer to in the drive-away operation is principally the transportation of trucks wherein they will either drive one single or they will mount one on the other.

Q. I know what it is. I just want to know, is it your [fol. 2017] opinion that they are not involved here?

A. That is my opinion, yes.

Q. Now, I want to point something out to you. I am not being critical of the decision of the Interstate Commerce Commission but I have myself never been able to follow the reasoning by which a drive-away was declared to be a motor carrier, but it was done nevertheless; you know that, don't you?

A. Yes, sir, I do.

Q. Now, since they have done that, one of the proposals here is to prohibit operations unless by company owned equipment; you know that, don't you?

A. Well, that may be a broad conception of it. I can't say that I know that.

Exam. Lawton: That is one of the many proposals.

By Mr. Ellis:

Q. That is one of the proposals here.

A. That is right.

Q. Now, if you apply the same sort of reasoning which was used at least in declaring these people to be motor carriers, you could conceive so that they could not operate at all because they do not own any motive power; isn't that right, Mr. Beiser?

Mr. Lordan: I think the question is objectionable because it does not relate to facts.

Exam. Lawton: I think we are getting into comedy, Mr. Ellis.

Mr. Ellis: Sir?

Exam. Lawton: I do not believe you are serious about this.

[fol. 2018] Mr. Ellis: I am just as serious as I can be, sir. I am trying to point out in the purpose of my examination, I am not hostile to the suggestions of the witness though, but I am serious to what I am pointing out, when you go to making special rules and regulations for one class of carrier, saying you are exempting these people and exempting some others, maybe you are and maybe you are not. That is the thing I want to call attention to here, and I have pursued it as far as I care to.

Exam. Lawton: It will be a good point to argue on brief.

Mr. Ellis: Yes, sir, that is the reason I am bringing it up.

Exam. Lawton: Mr. Woll.

By Mr. Woll:

Q. When were these proposals made by the American Trucking Associations, when were they made?

A. I don't know whether I got it in this text or not, and if I did not, I can't answer your question.

Q. Well, were the proposals made by the American Trucking Associations before the annual convention of your Association?

A. Yes, I think they were, although as I said at the

outset, I can't answer that because I do not know the answer.

Mr. Dixon: Yes, I can answer that. They very definitely were issued before the annual convention.

By Mr. Woll:

Q. Were the proposals taken up at the time of your annual convention?

A. And before that also, yes.

Q. And was there a vote taken?

[fol. 2019] A. Yes

Q. And I suppose these proposals were discussed at the time of your convention?

A. At length, yes.

Q. Now, were those the final proposals?

A. As I understand it, yes.

Q. Who was the Association's counsel who occasionally acted as a substitute on your committee?

A. Mr. Dixon.

Mr. Woll: That will be all.

Exam. Lawton: Does any one have any further questions of this witness?

If not, you are excused.

(Witness excused.)

Exam. Lawton: Off the record.

(Discussion off the record.)

Exam. Lawton: On the record.

Call your next witness.

Oscar W. Thomas was sworn and testified as follows:

Direct examination.

By Mr. Turney:

Q. Will you state your name and business address, please, sir?

A. My name is Oscar W. Thomas; 1015 East 8th Street, Kansas City, Missouri.

[fol. 2020] Q. What is your occupation?

A. I am in the storage and moving business, and represent Allied Van Lines as an agent in the transportation of household goods, Allied Van Lines as president.

Q. You are the president of the company?

A. That is right.

Q. How long have you been in that capacity?

A. Since February, 1947.

Q. Were you a director of the company prior to that time?

A. For many years.

Q. What is the Allied Van Lines?

A. Allied Van Lines is a common carrier of household goods, non-profit, cooperative, operating under the jurisdiction of rules and regulations of the Interstate Commerce Commission.

Q. Does it have a nation-wide certificate from the Interstate Commerce Commission?

A. Yes, sir.

Q. Your answer is "yes"?

A. Yes, sir.

Q. How many shipments of household goods did Allied handle last year, and what was the gross revenue?

A. In excess of 68,000 shipments and the gross revenue was approximately between 13 million 500 thousand dollars and 14 million dollars.

Q. Does that include the accessorial revenues, too?

[fol. 2021] A. Yes.

Q. Prior to December 1, 1946, Mr. Thomas, what was the Allied general operation plan?

A. Allied Van Lines at that time or prior to that time operated under a claimed certificate, claimed rights, nation-wide rights. The individual agents of Allied Van Lines operated under certificates which they had from the Interstate Commerce Commission and there was a coordination of effort between the two under which the agent operated within his own rights in the territory in which he was certificated, and supplemented that operation under lease to Allied Van Lines of the vehicles which he operated beyond his own territory and under the certificate of Allied Van Lines.

Q. And as hauling agent for Allied Van Lines?

A. That is right.

Q. Approximately how many agents were there at that time?

A. I believe over 500 at that time.

Q. Now, what significant changes were made in the plan of operation on December 1, 1946?

A. Because of long litigation that Allied Van Lines had had in trying to establish its right to exist, acquisition proceedings resulted in the agents permitting Allied to acquire all the rights of all the agents who cared to participate in the acquisition proceedings, and since that time the rights have been entirely in the, under the ownership of Allied Van Lines and the agents are operating exclusively as [fol. 2022] agents of Allied Van Lines.

Q. In interstate commerce?

A. In interstate commerce, the equipment owned by the agents and leased to Allied Van Lines.

Q. Was that pursuant to a plan of operation that was submitted to the Commission for approval in a formal application under Section 5?

A. It was.

Q. Has that plan of operation, that was submitted and that was approved, is that described in detail in the decision of the Commission in Allied Van Lines, Inc., Purchase Evanston Fireproof Warehouse, et al, 40 M. C. C. 555, and also known as Docket MC-F-2787?

A. Yes, sir.

Q. Were there specified lease arrangements between Allied and its agents detailed in the plan that was submitted to the Commission?

A. Yes, sir.

Q. And were those details, lease arrangements specifically considered by the Commission in its decision?

A. Yes, sir.

Q. Did that include the method of compensation that was involved in the agency agreements and lease agreements?

A. Yes, sir, that information was all in the record.

[fol. 2023] Q. And did the Commission specifically refer

to these agreements and approve them as being consistent with the public interest?

A. They did.

Q. Is the plan of operation which was approved in that decision still in effect?

A. Yes, sir.

Q. Now, are the lease arrangements which are part of that plan an inseparable part of the plan of operation?

A. Do you mean as to the distribution of revenue?

Q. And the existence of some such equivalent leases?

A. Yes.

Q. Now, has the Commission issued supplementary decisions to that in MC-F-2787, authorizing the addition of other agents by Allied under the same terms and conditions as those prescribed in Docket MC-F-2787?

A. It has.

Q. What were the titles and citations of those decisions?

A. The first one was Allied Van Lines, Incorporated, Purchase of Robert E. Allen and Edward Allen and others, Docket MC-F-3360, the first supplemental application, 45 M. C. C. 751. The second was Allied Van Lines, Incorporated, Purchase Edward George Johnson and others, Docket MC-F-3437, 50 M. C. C. 273. The third, Allied Van Lines, Incorporated, Purchase of Crown Storage Company, Incorporated and Utility Cartage Company, Docket MC-F-3502, 50 M. C. C. 273. The fourth, [fol. 2024] Allied Van Lines, Incorporated, Purchase Lesprance Freight and Storage Corporation and others, Docket MC-F-3677.

Q. Do each of those decisions describe in detail the plan of operation involved and submitted to the Commission and specifically approved?

A. I think each one of them described either in each case or by reference to the original case, yes.

Q. And those are the plans and operations in effect by Allied now?

A. That is right.

Mr. Turney: Mr. Examiner, I ask that those decisions, in order to save the record here with a lot of testimony as to the method of operation, that those decisions be incorpo-

rated by reference in the record not only for the citations of law but for the facts and description of the plan of operation.

Exam. Lawton: Is there any objection to that?

Mr. Ellis: Are they all reported, Mr. Turney?

Mr. Turney: They are all reported in the decisions of the Commission and he gave the citations in his testimony, he gave the volume in his testimony..

Mr. Eldred: Mr. Turney, I assume this testimony is that your plan of operation has been approved by the Commission?

Mr. Turney: Yes, sir.

Mr. Eldred: That is the principal part?

[fol. 2025] Mr. Turney: Well, that is part of it.

Mr. Eldred: Yes, all right.

Mr. Todd: What is the purpose, Mr. Turney? What do you mean, this should all be copied in the record?

Mr. Turney: No. Incorporated by reference.

Exam. Lawton: Incorporated by reference for the purpose of using the description, modus operandi.

Mr. Todd: I have no objection to that.

Exam. Lawton: So ordered, for the purpose as stated by Mr. Turney.

By Mr. Turney:

Q. Since the original decision, Mr. Thomas, in Docket MC-F-2787, as the Commission specifically added an additional limitation upon the leasing of equipment from other carriers by Allied?

A. It has.

Q. What was that limitation?

A. In Allied Van Lines, Incorporated, Purchase George Edward Johnson and others, MC-F-3437, 50 M. C. C. 273, Division 4 Report on January 20, 1948, stated that, this is a quotation, "Allied or its agents shall not enter into any agreement with any carrier of household goods for the augmentation of Allied's equipment except under terms whereby the equipment shall be under Allied's exclusive dominion and control for the entire period that its traffic is being transported under its operating rights and particularly, that one of its regular employees or a regular em-

[fol. 2026] ployee of one of its approved agents shall control and operate said equipment during that entire period".

Q. Is that the end of the quotation?

A. That is the end of the quotation. So far as I know that is the only carrier that has that sort of a restriction.

Q. Is the practical effect as distinguished from the legal effect of that limitation that Allied is now confined to the use of equipment of non-carriers?

A. That is right.

Q. In other words, is equipment under those conditions available from carriers?

A. No, it would not be.

Q. What is the name of your agency company, Mr. Thomas?

A. ABC Fireproof—do you mean my own company?

Q. Yes.

A. The ABC Fireproof Warehouse Company of Kansas City, Missouri.

Q. What was the operating authority which ABC surrendered in consummating the transaction approved in Docket 2787?

A. We had a certificate granted to us by the Interstate Commerce Commission covering 18 states, non-radial. I can give you the names of those states, if you want them.

Mr. Turney: I don't think that is necessary.

Exam. Lawton: No, I think not.

A. In addition to that we had a recommended report of an examiner for twelve additional states, non-radial.

[fol. 2027] By Mr. Turney:

Q. Well, now, what value did you place upon your operating authority at the time that you consummated the transaction?

A. I would say that I had read articles indicating that the value—I did not try to sell them, read articles indicating that rights of that kind had sold for between five hundred and one thousand dollars per state.

Q. Have you known yourself of instances where that price was paid?

A. Only according to releases in the newspaper and things of that sort, publications rather.

Q. So that would make the value of those run somewhere between $9,000.00 to $18,000.00 on that basis?

A. Exclusive of the recommended report that we had.

Q. That is hardly more than a hope, I guess?

A. It may be.

Exam. Lawton: Off the record.

(Discussion off the record.)

Exam. Lawton: On the record.

We will recess at this time until 1:30.

(At 11:50 a. m., a recess was taken until 1:30 p. m. of the same day.)

[fol. 2028] AFTERNOON SESSION

1:30 P. M.

Exam. Lawton: All right, come to order, please. The witness will resume the stand.

OSCAR W. THOMAS resumed the stand and testified further as follows:

Direct examination. (continued)

By Mr. Turney:

Q. Mr. Thomas, I believe at the time we recessed you had just testified that you had estimated the value of the operating authority that A. B. C. had surrendered to Allied somewhere between $9,000 and $18,000. Was the consideration for the surrender of those rights the establishment of your company as an Allied agent subject to the approved plan plus a cash consideration of $1.00?

Mr. Wheeler: Mr. Examiner, I object to the question as being removed and irrelevant to this proceeding.

Mr. Turney: Mr. Examiner, I submit it is not at all removed and irrelevant. One of the issues that was raised at the time of the order was the question of the exemption

of carriers who have had a plan specifically approved by the Commission.

Mr. Wheeler: Do you contend that there was no such plan approved by the Commission now?

Mr. Turney: There was such a plan approved by the Commission.

Mr. Wheeler: Haven't you established that?

Mr. Turney: That I have, and I am going to establish [fol. 2029] something else if counsel will wait.

Exam. Lawton: Overruled.

Mr. Turney: Under the sea train case, whether the exemption had been prescribed specifically or not, we would be entitled to retain what we have unimpeded by any further restrictions, and I submit that we are entitled to make this sort of proof.

Exam. Lawton: Overruled, he may answer.

The Witness: Will you repeat the question, please?

Mr. Eldred: Have you received a certificate from the Interstate Commerce Commission?

Mr. Turney: Yes, we have.

Mr. Eldred: And does that certificate contain the restrictions or exemptions?

Mr. Turney: No, sir, it does not.

Mr. Eldred: It is merely a straight household goods certificate?

Mr. Turney: Nationwide household goods authority unrestricted.

(The question was read by the reporter.)

A. It was.

By Mr. Turney:

Q. Why was you company willing to surrender those valuable rights for that consideration?

A. Because of the fact that we had been operating through Allied Van Lines since its origin in 1928; I had been a member of the Board of Directors for sometime and I knew that the principal methods of operation were entirely sound. I [fol. 2030] knew also that because of the specialized nature of household goods transportation that it was a very difficult operation to operate without a connection, a national

affiliation of some kind, and I had complete confidence in the running of the organization; in fact, had something to do and knew about the operations, the policies, and all that sort of thing, and felt that this was a much sounder basis on which to operate, that it would be practically impossible for us to maintain a satisfactory operation and serve the public operating as a unit, and this seemed about the only answer to the problem. I think that same thing was in the minds of the other 500 agents of Allied Van Lines—or 325 at that time—who elected to go that way and later was supplemented by another larger group.

Exam. Lawton: Never mind what you think about the others, just answer as to your experience.

By Mr. Turney:

Q. Mr. Thomas, were you present at the hearings in that case?

A. Yes.

Q. Did a number of those agents so testify, that those were the reasons?

Mr. Wheeler: Mr. Examiner, I object; we are not here to determine whether or not the operation of Allied Van Lines is sound or unsound. That doesn't come within the category of this witness. If we do that we will be here forever.

[fol. 2031] Exam. Lawton: I am a little puzzled as to the connection all of this has with the issues in this investigation.

Mr. Turney: Well, the issues in this investigation, as I understand it, are whether the Commission is going to impose any rules in addition to the rules that are now in effect today, and secondly, who they are going to apply them on. Now, our company has had its leasing arrangements specifically examined, every nook and cranny of them, specifically examined by the Commission. They found they were in the public interest; they were consistent with the public interest. It was a highly litigative proceeding, and on the basis of that finding these carriers surrendered valuable rights and rely on the Commission's order and their findings.

Exam. Lawton: Can't you argue that in the brief?

Mr. Turney: I can argue it once I have the factual basis in the record on which to argue it. But the sea train case is not only the basis for our contention, but it is also the basis for our putting in that proof because that was the proof that the court said was relevant proof in that case and that was the basis on which the sea train case was decided.

Mr. Wheeler: Mr. Examiner, he is having this witness repeat the testimony in another proceeding, apparently.

Mr. Lorton: Which proceedings are in this record by counsel's request.

Mr. Turney: That record is not in this record by reference, [fol. 2032] the decision is in the record by reference, and the Examiner restricted the witness to testify as to his own reasons for surrender. Now, I asked him if he was at the hearing, at which the other agents—some other agents testified as to their reasons and he testified that he was. He is perfectly competent to testify as to what their sworn testimony as to their reasons was. This is not a prosecution or a court of law; this is a general investigation by the Commission to find out what the facts are, and in view of the ruling at the original Washington hearing as to what could go in despite the hearsay rule, I think that this is a poor time to start to apply any such strict interpretation as counsel are promoting.

Exam. Lawton: Isn't it enough to have his reasons that prompted his company to make the sale? Isn't that enough without having him tell what the reasons of the others were? He certainly couldn't go into detail as to what all of them testified.

Mr. Turney: No, I merely wanted to establish that the testimony that they gave showed that they did it for exactly the same reasons that he so briefly outlined. That is all I am trying to establish. I think I have a right to establish that others besides himself did it for that reason.

Mr. Woll: He purports to speak for all the other members of this particular group, and does he know what each member of this particular group——

[fol. 2033] Mr. Turney: Testified, yes.

Mr. Woll: Then we will be here all day long, if we have him relate what each member testified to.

Mr. Turney: No, we won't. I will ask one more question.

Exam. Lawton: All right, I will permit one more question.

By Mr. Turney:

Q. The question I have asked so far was he at the hearing when they testified. Now, Mr. Thomas, did they in their testimony give substantially the reasons for their being willing to transfer that you gave?

Mr. Woll: I object to that, if Your Honor please. Are we going to cross-examine this man now as to the substance of what those people testified to?

Mr. Turney: You may if you want to.

Mr. Woll: In two seconds he puts something in which it may take a day to cross-examine on.

Exam. Lawton: That is one of those things that we run into in these cases. Overruled.

By Mr. Turney:

Q. Mr. Thomas, did the Commission make a finding as to what the reasons for the carriers being willing to make the transfer were?

A. Yes, sir, I think they recited those in the order of the Commission.

Q. When you and the other agents consummated the transaction approved in these financial proceedings was the surrender of your rights a necessary and inseparable part [fol. 2034] of the transaction approved by the Commission?

A. Yes, sir.

Q. Did the Commission approve the transactions as giving permanence to an agency relationship that had lasted for a long time in the Allied organization?

Mr. Wheeler: I object to that as asking the witness to draw a legal conclusion from the finding of the Commission.

Exam. Lawton: I thought we had those citations in the case, and they speak for themselves.

Mr. Turney: That is all right with me. I thought maybe you would want it in the record here for the benefit of some

of the people who weren't participants in the case, what they did find, but that is all right with me.

Q. Mr. Thomas, is the equipment used in Allied service clearly painted with Allied colors and Allied name and easily identified as an Allied vehicle?

A. I would say that 95 per cent of it is. There is some that is not. It is identifiable but it doesn't conform in every respect to Allied's specification.

Q. Is that usually the equipment that is used for emergency or overflow use?

A. Yes. That isn't true altogether but it is largely true, yes, sir.

Q. Practically all of your regular equipment is painted with the Allied name and colors and so forth, is that correct?

[fol. 2035] A. Yes, sir.

Q. Is an effort being made to increase that to a hundred percent?

A. Yes, sir.

Q. Do the Allied rules permit the agent to place a small designation on the side of the vehicle indicating the name of the Allied hauling agent?

A. Yes, sir.

Q. Are all the drivers of Allied equipment employees of either Allied or one of its agents?

A. Yes, sir.

Q. Do any of Allied's hauling agents have interstate household goods carrier authority of their own?

A. No, sir.

Q. Are Allied's leases long-term leases or trip leases?

A. They are one-year leases.

Q. Who directs and dispatches the vehicles in Allied service?

A. Allied Van lines.

Q. Is that done through a single office?

A. Through the general office and also through the 17 I think it is branch offices of Allied Van Lines located in various sections of the country.

Q. How are Allied hauling and booking agents compensated, on a mileage basis or upon a division of revenue?

A. It is the division of the revenue and also a mileage [fol. 2036] basis in one branch of the service.

Q. For your ordinary service why is the division of revenue basis the most desirable from the standpoint of Allied?

A. Because of the fact that Allied is a cooperative and the theory back of Allied Van Lines is that the revenue derived from transportation accessorial services shall go back to the agents in proportion to the business they furnish the organization.

Q. Business or service which they furnish the organization?

A. Yes, sir.

Q. Are the Allied leasing forms standard forms for all Allied equipment?

A. Yes, sir.

Q. Have those forms been specifically approved for Allied by the Commission?

A. Yes, sir.

Q. Does Allied keep records and control sheets on the number and location of Allied equipment throughout the United States?

A. Yes, sir.

Q. Does it assign the equipment to particular operations, particular trips?

A. Yes, sir.

Q. Does Allied own any equipment separate from that of its agents?

A. No, sir.

Q. So the lease is related to both power units and trailers, is that correct?

[fol. 2037] A. Yes, sir.

Q. Is the equipment that is leased to Allied on a long-term basis ever used by the agents to transport intrastate shipments?

A. Yes, sir.

Q. Is that an essential part of Allied's operation?

A. Yes, sir.

Q. Was that involved as part of the plan of operation that was submitted to the Commission?

A. Yes, sir.

Q. In the financial proceedings that you have described?

A. Yes, sir.

Q. Does the public benefit from that arrangement?

A. Yes, sir.

Q. In what way?

A. Well, it affords a greater use for the vehicles; it affords, that is, it assures a more experienced employee personnel on the vans; it insures a steadier employment for the employees, which all benefits the public in the final analysis, and it also insures a greater—that is, a less empty mileage.

Q. Is it the practice of the Allied agents to train their employees for Allied service up through their local service in their own organization?

A. Yes, sir. In other words, an employee of Allied Van Lines, in most cases, unless he has had experience with some other company, is first placed as a local employee in [fol. 2038] local service and then he is gradually worked up until he gets the experience to go on the long distance end of the business.

Q. Then when he becomes pretty old for the long-haul business does it afford a place for him to work that he is capable of handling?

A. Yes, sir, it gives him the opportunity, when conditions change, his economic situation, social situation, that he can fit himself into the same organization and do the same character of work that he has previously been doing in the——

Q. In the local operation?

A. Yes, sir.

Q. Is there ever any question as to whether a vehicle that is used part time for Allied service and part time for the agent's intrastate service, is there any question about which service he is in?

A. No, not to my knowledge, there is never any question about it.

Q. The rules provide for all the various contingencies of whose service he might be in at any given time, is that correct?

A. Yes, sir.

Q. Are the drivers' logs for both services, for Allied and for the agent itself retained at the office of the hauling agent and available for easy matching by the Commission's staff or anyone else investigating?

A. Yes, sir, and then returns are sent into Allied Van Lines so they can make a consolidated return to the Com-
[fol. 2039] mission.

Q. And your method of keeping records permits you to follow an individual driver's log for all trips that he may make, is that correct?

A. Yes, sir.

Q. And he drives exclusively for Allied or that hauling agent, is that correct?

A. Yes, sir.

Q. Approximately how many pieces of equipment does Allied have under lease?

A. About 1700.

Q. Is that complete units?

A. Yes, about 700 straight jobs and a thousand tractor-trailer units.

Q. Are the Allied agents under the agency agreements and the leasing agreements required to maintain such equipment in good condition and to inspect it and keep it in compliance with the Commission's safety regulations?

A. Yes, sir, that is part of the contract between Allied and the agents.

Q. And you require your agents to make such inspections currently on behalf of Allied?

A. Yes, sir.

Q. Are all shipments carried on equipment used in Allied service billed on Allied paper?

[fol. 2040] A. (No response.)

Q. I will rephrase the question, Mr. Thomas. Whenever there is a shipment, an Allied shipment on the truck do the papers show it clearly to be an Allied shipment?

A. Yes, sir.

Q. Are those shipping papers on the truck at all times while that shipment is on the truck?

A. Yes, sir.

Q. And all those shipments are identified as Allied shipments?

A. Yes, sir.

Q. Now, are the intrastate shipments which are hauled by an Allied agent billed in the name of Allied or the agent?

A. They are billed in the name of the agent.

Q. Is there any need whatever for any such serial number arrangement of the identification tags provided for in Rule 2-E of the proposed rules accompanying the Commission's order of January 1?

A. I see none in the case of Allied because our vehicles are identified and can be identified readily by the information that is on them.

Q. Does Allied maintain records which include for each trip a record of first the name and address of the hauling agent?

A. Yes, sir.

Q. The state registration number of the equipment?

A. Yes, sir.

Q. The name and address of the driver?

[fol. 2041] A. I don't know that the name and address of the driver is on every shipment.

Q. But you have records from which that can be ascertained?

A. Oh, yes, there are records that can be traced at any time.

Q. On any shipment?

A. Oh, yes, sure.

Q. The description and weight of the shipment?

A. Yes, sir.

Q. That is all shipments?

A. Yes, sir.

Q. The origin place and date of departure?

A. Yes, sir.

Q. The destination place and date of arrival?

A. Yes, sir. Do you mean the date of arrival——

Q. Of the shipment.

A. In advance?

Q. No.

A. The record is clear after the shipment is completed as to the date of arrival at the destination, yes.

Q. That is correct, that is what I meant.

A. Yes.

Q. Does Allied through its duly appointed agents insure that all its drivers are familiar with Parts 2, 4 and 5 of the motor carriers' safety regulations pertaining to driving a

motor vehicle, reporting of accidents and hours of service of drivers?

[fol. 2042] A. Yes, sir.

Q. Does Allied through its duly appointed agents require that its drivers comply with the physical examination requirements and other qualifications of drivers prescribed in the motor carriers' safety regulations, and does it maintain in the offices of its agents copies of the certificates of physical examination of drivers of equipment leased from that agent?

A. Yes, sir.

Q. Does the approved Allied lease form separate the charges for the wages of drivers from the charges for the leasing of the equipment?

A. No, sir.

Q. Would any public purpose be served by requiring such a separation for Allied?

A. I can't think of any because there are other records which will give that information to anybody that is interested.

Q. And the entire effort, whether it be a driver or equipment rental, is still part of the cooperative service of Allied?

A. Yes, sir.

Mr. Todd: Objection, that is certainly leading.

Exam. Lawton: Please don't lead the witness, Mr. Turney.

By Mr. Turney:

Q. Will you state whether or not it would be any sort of a burdensome nuisance to your company to have to make such a separation on each trip?

A. I should think it would. It would just add to a lot of [fol. 2043] paper work that we already have but accomplishes no purpose in some cases.

Q. Does the Allied standard agreement form set forth the information required in the Commission's proposed rule 2-I, first, the charges to be made for the use of the equipment?

A. You are talking about the lease now?

Q. Yes.

A. I don't think the lease—I think it refers to a contract between the agent and the——

Q. That is part of the agency contract?

A. Yes, sir.

Q. Does the lease form show the method of arriving at the charges, the lease form, now?

A. No, I think that is in the contract.

Q. Does it have a complete statement of all terms, agreements or practices affecting the charges for the value of the rental service?

A. I think that is also in the contract.

Q. The time and date the agreement contract or lease begins and ends?

A. The date, I don't know that the time is on there.

Q. An endorsement by each party that the agreement contains on accurate and complete statement of the terms thereof or that the equipment covered in the agreement has been inspected and checked and found to meet the requirements of Parts 3 and 6 of the motor carriers' safety [fol. 2044] regulations?

A. I don't know, you didn't preface that question——

Q. Well, does the lease form provide any such statements as that?

A. Well——

Mr. Todd: Mr. Examiner, I wonder why we couldn't have the lease in the form of an exhibit? Of course, all this testimony is contrary to the best evidence rule and it is taking up a lot of time, too.

Mr. Turney: Mr. Examiner, our lease form has been approved. It is a matter of public record. We have had a very unfair situation in this case from the beginning, and I guess I might as well put it in the record now. We had a bunch of rules that were proposed rules put out by the Commission in its order. The administrative procedure act requires that the proponent of a rule has the burden of proof of establishing those rules. Apparently there is no proponent of those rules in this proceeding. At least he hasn't made himself known. Now, that has had the effect of placing an unfair and unlawful burden upon all the respondents in this case in knocking down any rule that